



Artist: Hyacinth Kabisa

2003 Annual Report
N.C. Long Term Care Ombudsman Program
N.C. Division of Aging and Adult Services



From the
Mountains
To the
Coast

Meet the Artist

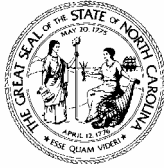
State Long Term Care Ombudsman Program staff had the pleasure of meeting with Ms. Hyacinth Kabisa, whose art work is on the cover of this annual report, while she was living in a skilled nursing facility. We are very pleased that she agreed for the Ombudsman Program to create the Annual Report cover using her art. Currently Ms. Kabisa serves on the North Carolina Nursing Facility Transitions Grant Participant Task Force along with a staff member from the State Long Term Care Ombudsman Program. Very recently, Ms. Kabisa successfully transitioned back into the community after living in the nursing home for over four years.

Born in Burundi, Central Africa, I was a teacher at the University of Burundi before moving to the USA in 1992 to pursue graduate studies. My goal to complete a doctorate program was cut short when a civil war erupted in Burundi causing a loss in my scholarship. Nonetheless, I did acquire a Master's degree in Economics from Penn State and took additional classes.

I worked for two years until 1999 when I became victim to a car accident that left me a quadriplegic. Even though I had to be placed in a nursing home and separated from my children, I have refused to get trapped in a victim mentality and be paralyzed by self-pity. Instead, I have chosen to rely on God to make a way for me and to give me the strength to deal with the challenges.

In 2002, having no experience or training in visual art and despite the inability to grasp with my hands, I began to develop an interest in watercolors. I paint with a brush using a writing splint around my hand to hold it. Watercolor painting has become more than a hobby for me. It's a way I capture and celebrate the beauty of God's creation.

Hyacinth Kabisa
2003



**North Carolina Department of Health and Human Services
Division of Aging and Adult Services**

Michael F. Easley, Governor
Carmen Hooker Odom, Secretary

Karen E. Gottovi
Director

I am pleased to present the North Carolina Long Term Care Ombudsman Program 2003 Annual Report for federal fiscal year October 1, 2002 through September 30, 2003. This report offers you highlights of the important ombudsman services and activities provided that reflect the many different ways local volunteers, Regional Ombudsmen and the Office of State LTC Ombudsmen have worked to protect residents' rights, empower families and educate consumers about long term care issues and options.

As the State Long Term Care Ombudsman, my goal is to work collaboratively with long term care providers, regulatory agencies, advocacy groups, consumers and others to enhance the quality of care and quality of life on behalf of residents in nursing homes and adult care homes in North Carolina. The Long Term Care Ombudsman Program is mandated to protect residents' rights and to work to improve the quality of care and life by providing direct resident access and advocacy services.

North Carolina General Statute §§ 143B-181.18(8) requires the Office of the State Long Term Care Ombudsman to prepare an annual report, that includes data on complaints about residential care as well as recommendations for addressing long term care issues identified. Information about the Long Term Care Ombudsman Program's successful completion of public education events, community involvement efforts and elder abuse prevention activities are also included.

This has been a very productive year for the Long Term Care Ombudsman Program! Please do not hesitate to contact us if you have questions or comments about our Annual Report.

Sincerely,

A handwritten signature in cursive script that reads "Sharon C. Wilder".

Sharon C. Wilder
State Long Term Care Ombudsman

NORTH CAROLINA ADULT CARE HOME BILL OF RIGHTS
(Condensed Version)

EVERY RESIDENT SHALL HAVE THE FOLLOWING RIGHTS:

1. To be treated with respect, consideration, dignity and full recognition of his or her individuality and right to privacy.
2. To receive care and services which are adequate, appropriate and in compliance with relevant federal and state laws and rules and regulations.
3. To receive upon admission and during his or her stay a written statement of the services provided by the facility and the charges for these services.
4. To be free of mental and physical abuse, neglect and exploitation.
5. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
6. To have his or her personal and medical record kept confidential and not disclosed without the written consent of the individual or guardian, which consent shall specify to whom disclosure may be made except as required by applicable state or federal statute or regulation or by third party contract.
7. To receive a reasonable response to his or her requests from the facility administrator and staff.
8. To associate and communicate privately and without restriction with people and groups of his or her own choice on his or her own initiative at any reasonable hour.
9. To have access at any reasonable hour to a telephone where he or she may speak privately.
10. To send and receive mail promptly and unopened, unless the resident requests that someone open and read mail, and to have access at his or her expense to writing instruments, stationery and postage.
11. To be encouraged to exercise his or her rights as a resident and citizen, and to be permitted to make complaints and suggestions without fear of coercion or retaliation.
12. To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of personal valuables. This space shall be accessible only to the residents and the administrator or supervisor in charge.
13. To manage his or her personal needs funds unless such authority has been delegated to another. If authority to manage personal needs funds has been delegated to the facility, the resident has the right to examine the account at any time.
14. To be notified when the facility is issued a provisional license by the North Carolina Department of Health and Human Services and the basis on which the provisional license was issued. The resident's responsible family member or guardian shall also be notified.
15. To have freedom to participate by choice in accessible community activities and in social, political, medical and religious resources and to have freedom to refuse such participation.
16. To receive upon admission to the facility a copy of this section.
17. To not be transferred or discharged from a facility except for medical reasons, their own or other residents' welfare, or nonpayment. Except in cases of immediate jeopardy to health or safety, residents shall be given at least 30 days advance notice of the transfer or discharge and their right to appeal.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____

NORTH CAROLINA BILL OF RIGHTS FOR NURSING HOME RESIDENTS
(Condensed Version)

EVERY RESIDENT SHALL HAVE THE FOLLOWING RIGHTS:

1. To be treated with consideration, respect and full recognition of personal dignity and individuality.
2. To receive care, treatment, and services that are adequate and appropriate, and in compliance with relevant federal and State rules.
3. To receive at the time of admission and during stay, a written statement of services provided by the facility and of related charges. Charges for services not covered under Medicare and Medicaid shall be specified.
4. To have on file physician's orders with proposed schedule of medical treatment. Written, signed evidence of prior informed consent to participation in experimental research shall be in patient's file.
5. To receive respect and privacy in his medical care program. All personal and medical records are confidential.
6. To be free of mental and physical abuse. To be free of chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical records.
7. To receive from the administrator or staff of the facility a reasonable response to all requests.
8. To receive visitors or have access to privacy in phone use at any reasonable hour. To send and receive mail promptly and unopened, with access to writing materials.
9. To manage his/her own financial affairs unless other legal arrangements have been so ordered.
10. To have privacy in visits by the patient's spouse.
11. To enjoy privacy in his/her own room.
12. To present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion or discrimination.
13. To not be required to perform services for the facility without resident's consent and written approval of the attending physician.
14. To retain, to secure storage for, and to use his personal clothing and possessions, where reasonable.
15. To not be transferred or discharged from a facility except for medical, financial, or their own or other patient's welfare. Any such transfer shall require at least five days' notice, unless the attending physician orders immediate transfer, which shall be documented in the patient's medical record.
16. To be notified when the facility's license is revoked or made provisional. The responsible party or guardian must be notified, also.

The Ombudsman is an advocate for those who live in long term care facilities. For more information on resident rights, call the Regional Long Term Care Ombudsman.

Your Regional Ombudsman is: _____ Telephone: _____

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2003 – The Year in Review

This was a busy year for the Office of State Long Term Care Ombudsman. Two new state level initiatives were launched: 1) creation of the Taskforce, Strategic Alliances for Elders (S.A.F.E.) in Long Term Care and 2) development of a family empowerment project that will offer workshops, planning tools and informational resources.

S.A.F.E. in Long Term Care is North Carolina's response to one of the mandates in the 2000 amendments to the Older Americans Act that directs State Long Term Care Ombudsman Programs to coordinate services with state level law enforcement entities and courts of competent jurisdiction. This task force is composed of representatives from the Long Term Care Ombudsman Program, Adult Protective Services Program, local and state law enforcement agencies, the judicial system, Division of Facility Services, the long term care industry, Emergency Management Services, AARP, the NC Alzheimer's Association and community based advocacy organizations. The goal of this task force is to develop educational materials for residents, families, long term care facilities, law enforcement and the general public. The curricula is intended to heighten awareness of the occurrence of abuse, neglect and exploitation of residents in long term care and to educate target audiences about how to report crimes committed against older adults in long term care facilities to law enforcement for investigation.

The goal of the family empowerment is to educate and support family members so that they can be well-informed, effective advocates for their relatives living in long term care facilities. The emphasis of this project is on reinforcing the concept that delegating daily care to professionals in the long term care setting does not diminish the family's role in decisions involving the care and services that will be provided.

Individuals who are planning to place a loved one in a long term care facility as well as those with family already residing in a long term care facility will be invited to attend one-day workshops. These workshops will be a collaborative effort between long term care ombudsmen, attorneys, financial professionals and other aging related service providers. The planned curriculum will focus on both "Pre and Post Admission" segments that examine the most frequent issues and decisions encountered as a consumer moves along the road to entering and living well in a long term care facility. The empowerment initiative's main goal is to enable family members and consumers to become knowledgeable about choices and options available before they are confronted with a crisis situation. Training topics are designed to maximize consumers' ability to advocate for needed services that will ensure their needs as well as their loved ones' are met appropriately.

Last year, the Office of State Long Term Care Ombudsman partnered with other organizations on projects and presentations intended to increase awareness of long term care issues. The N. C. Long Term Care Ombudsman Program, along with AARP and Friends of Residents in Long Term Care, Co-Sponsored a National Elder Law Advocacy two-day training. The key topics were Elder Abuse Prevention and Medicare. Long Term Care Ombudsmen, community advisory committee members, county adult home specialists, Aging and Adult Services staff, attorneys, volunteers working with older persons and other aging advocates attended these workshops. State Ombudsman

Program staff also met monthly to work with Friends of Residents in Long Term Care (FOR) to develop four (4) basic presentation modules that can be used by the FOR volunteer speakers' bureau when they speak to family councils. Each module was presented to a family council by the workgroup and then fine tuned based on feedback from those in attendance. Friends of Residents will incorporate these modules into a Family Council Manual to be distributed statewide.

Also in 2003, the N.C. Long Term Care Ombudsman Program partnered with the N.C. Coalition on Aging, N.C. Association of Area Agencies on Aging, N.C. Adult Foster Care Association, N.C. Adult Day Services Association, Friends of Residents in Long Term Care, Alzheimer's Association of N.C., UNC Institute on Aging and AARP to sponsor the **3rd Bi-Annual Long Term Care Advocacy Day at the General Assembly and Long Term Care Public Policy Conference**. An estimated 300 people attended both events. Topics addressed in workshops during the Public Policy Conference included:

- ◆ *An Update on Implementation of Senate Bill 10, historic legislation that established a Transfer/Discharge right for adult care home residents,*
- ◆ *An Update on N.C.'s Budget Crisis,*
- ◆ *Consumer Directed Care,*
- ◆ *Long Term Care 101,*
- ◆ *Effective Communication with Legislators, and*
- ◆ *The Workforce Crisis: Who is Taking Care of Mother*

In honor of Residents' Rights Week, the Governor signed a proclamation declaring October 5-11, 2003 as "**Residents' Right Week**" in North Carolina and encouraged citizens to join him in this important observance. The Office of State Long Term Care Ombudsman distributed electronic copies of the Proclamation to all regional programs and arranged for display of the original Proclamation in the foyer of the Division of Aging and Adult Services during the designated week.

Throughout 2003, the Office of State Long Term Care Ombudsman responded to many opportunities to conduct presentations to community groups and other organizations about long term care issues. Some of these audiences included: N.C. Employee Assistance Professional Association, Hospice of Wake County, UNC-Chapel Hill Aging Public Policy class, nursing home administrators, nursing home and adult care home direct care staff, North Carolina Activities Professional Association, an Activities Directors class, residents of an independent living facility, the North Carolina Conference on Aging, family councils, community advisory committees and resident councils. The State Ombudsman also made a presentation at the 2003 National Citizens Coalition for Nursing Home Reform on the **Realities of Retaliation** in long term care.

The State LTC Ombudsman Program staff continues to actively participate as members of many organizations, task forces, work groups, committees and coalitions representing the residents' perspective on a variety of issues impacting both quality of care and quality of life in long term care facilities. These include:

- North Carolina Coalition for Long Term Care Enhancement
- North Carolina Nursing Facility Transition Grant Participant Task Force

- Guardianship Workgroup
- Orange County Elder Abuse Prevention Task Force
- Friends of Residents in Long Term Care
 - Public Policy Committee
 - Education & Outreach Committee
 - Family Council Project
- Direct Care Workers' Association of North Carolina
- Division of Facility Services, Adult Care Home Rules Review Committee
- N. C. Institute of Medicine, Nursing Home Quality Standards Workgroup
- Division of Aging and Adult Services, Disaster Team
- N. C. Department of Health and Human Services and N. C. Board of Nursing's Medication Aide Project

Last year, the Office of State Long Term Care Ombudsman also expanded the State Certification process required for newly hired regional ombudsmen to five days of intensive training. The State Ombudsman also contacted all long term care provider trade groups as well as individual providers to ensure they were informed about the Long Term Care Ombudsman Program representative's role as health oversight agents under new HIPAA regulations for health care facilities. Also, all written informed consent forms used by the Ombudsman Program were updated and reviewed by the Program's legal representative in the Attorney General's Office to ensure all critical elements required by HIPAA were incorporated.

An Ombudsman Success Story

From Shannon Slater, Regional Ombudsman

I first got to know 88-year-old Petunia (name changed) when I had been on the job only four months. But it was Petunia's distant cousin, calling from a far-away country, who first contacted the Ombudsman Program for help. The cousin had just received a ten-page handwritten letter from Petunia. Petunia had written to her cousin that she had been "sentenced to spend the rest of my life" in a local nursing home, having been judged incompetent and assigned a guardian. The cousin thought the tone of the letter was very rational and questioned if a guardianship was appropriate.

At the cousin's request, I visited Petunia in the nursing home and got to know her. Petunia was "sharp as a tack", but from a foreign country and clearly misunderstood by our American system. All she wanted to do was go back to her own little home, but her guardian would hear nothing of it. For the past nineteen months, Petunia has continued to ask our ombudsman office for creative resources on how to petition the court to revoke guardianship since she is competent. Last year, she moved from the nursing home to an adult care home. And just this month, lawyers called our ombudsman office with the good news that Petunia's competency has been restored. **Petunia can go home!**

Long Term Care Ombudsman Program History

The Long Term Care Ombudsman Program was initially established by authorizations included in the federal Older Americans Act through amendments in 1978. Following the successful completion of pilot ombudsman programs in seven states, authorization for a national Long Term Care Ombudsman Program was enacted requiring that every state establish a Long Term Care Ombudsman Program. In subsequent years, further amendments to the Older Americans Act expanded the jurisdiction and scope of the Long Term Care Ombudsman Program to cover both nursing homes and adult care homes. The broader scope included the creation of a network of trained volunteers, an informal complaint resolution process and systems advocacy responsibilities related to problems impacting residents in long term care facilities.

In 1989, the North Carolina State Long Term Care Ombudsman Program was codified into state law through General Statute 143B-181.15-.25 which mirrors the federal laws set forth in the Older Americans Act. Mandated responsibilities are outlined for state operation of the Long Term Care Ombudsman Program through an Office of State Long Term Care Ombudsman and include the functions of Regional Long Term Care Ombudsman Programs. The North Carolina State Long Term Care Ombudsman Program is located in the Department of Health and Human Services, Division of Aging and Adult Services. The Regional Long Term Care Ombudsman Programs are housed in the 17 Area Agencies on Aging.

2003 Services Overview

State and Regional Long Term Care Ombudsman Program
(Detailed information about these activities is provided on pages 7-9 of this report)

3,868	Complaints processed through the LTC Ombudsman Program
1,235	Complainants assisted by State and Regional LTC Ombudsmen
7,396	Resident visits made in adult care homes and nursing homes
428	Facility licensure surveys observed
128	Resident Council meetings attended
102	Family Council Meetings attended
14,319	Individuals provided technical assistance with LTC issues
4,739	Consultations provided to LTC providers
441	Staff Training sessions provided in LTC facilities
606	Community educational sessions provided
3,617	Training hours committed to community advisory committee members and new ombudsman

Long Term Care Ombudsman Program Purpose

The North Carolina Long Term Care Ombudsman Program's mission is to protect residents' rights and improve the quality of care and life for residents in long term care facilities by providing access and advocacy services that assist residents in protecting their health, safety, welfare, and rights.¹ The program provides information to citizens about the long term care system as well as assistance accessing services. The Long Term Care Ombudsman Program's mandated responsibilities include to:

- ◆ Receive and attempt to resolve complaints made by or on behalf of residents in long term care facilities;
- ◆ Provide information to the general public on long term care issues;
- ◆ Promote community involvement with long term care residents and facilities;
- ◆ Work with long term care providers to resolve issues of common concern;
- ◆ Assist long term care providers with staff training (particularly on Residents' Rights);
- ◆ Train and provide technical assistance to county appointed community advisory committees;
- ◆ Collect and report data regarding the number of complaints handled and other program activities;
- ◆ Carry out activities for education and prevention of elder abuse, neglect, and exploitation; and
- ◆ Provide information to public agencies, legislators, and others on problems impacting the rights of residents as well as make recommendations for resolution of issues identified.²

¹ 42 USC § 3001 et seq. A copy of relevant sections is attached as Appendix A.

² § 143B-181.150.25 et seq. A copy is attached as Appendix B.

Program Organization

The State Long Term Care Ombudsman Program is part of the Elder Rights and Special Initiatives Section in the Division of Aging and Adult Services within the North Carolina Department of Health and Human Services. The State Long Term Care Ombudsman, along with two state level ombudsmen, manages day-to-day program administration and is responsible for assuring that the mandates of the Older Americans Act as amended and N. C. General Statutes are met.

There are 24 Regional Long Term Care Ombudsmen located in the 17 Area Agencies on Aging across the state. Each Area Agency on Aging serves multiple counties. The number of Regional Ombudsmen available within a region is determined through a state funding formula which considers the number of long term care beds, number of community advisory committees, and number of square miles within each region. Community advisory committees were established through state legislation in the mid 70's. Local boards of county commissioners were authorized to appoint community citizens to serve as advocates for residents in long term care facilities. Each community advisory committee member appointed must complete 15 hours of initial training prior to assuming their official duties as mandated by state law (G.S. 131D-31 and G. S. 131E-128). The Regional Long Term Care Ombudsman Program is mandated to ensure that each volunteer appointed completes the training requirements as established in the State Long Term Care Ombudsman Program's Policies and Procedures in order to serve as 'grassroots ombudsmen' in their respective communities. There are currently 1,188 trained community advisory committee volunteers serving on adult care home, nursing home, or joint community advisory committees in all 100 counties in the state.

The chart below shows the types of long term care facilities for which the State Long Term Care Ombudsman Program has legal jurisdiction to provide services to residents. In June 2001, administration of the small group homes for developmentally disabled adults was transferred into the State's mental health system. Group homes for developmentally disabled adults now fall under G.S. 122C. This transition ended the Long Term Care Ombudsman Program's involvement with those 212 homes.

2003		
<i>Type of Facility</i>	<i>Number of Facilities</i>	<i>Number of Beds</i>
Nursing Homes	446	48,937
Adult Care Homes	1,347	38,902

Long Term Care Ombudsman Program Services

Technical Consultation to the General Public

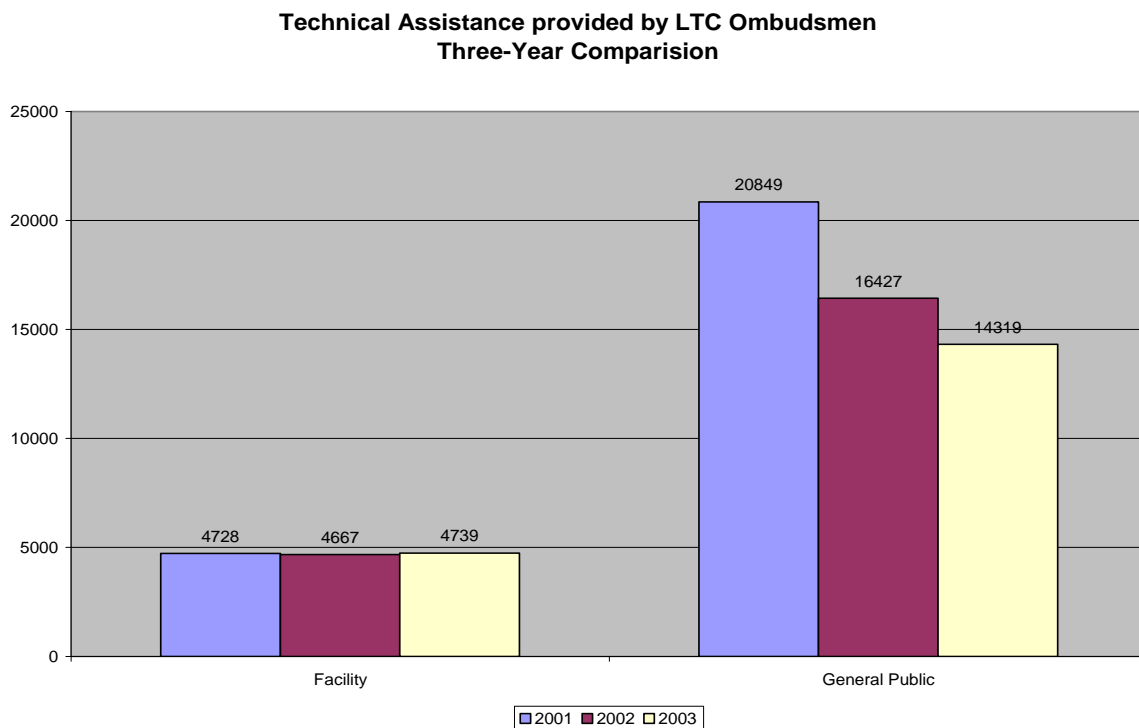
Ombudsmen provided technical assistance consultations to 14,319 individuals during 2003. The information most frequently requested was:

- ◆ Procedures for filing a formal complaint regarding lack of care or services provided to residents.
- ◆ Long term care options available for relative needing placement.
- ◆ Empowering residents/family members in exercising Residents' Rights.

Technical Assistance to Nursing Homes and Adult Care Homes

The Program responded to 4,739 consultation requests from long term care providers regarding resident care issues such as:

- ◆ How to deal effectively with difficult resident behaviors.
- ◆ How to communicate effectively with family members.
- ◆ Ensuring Residents' Rights are protected when addressing issues such as roommate conflicts, elopements, falls, and privacy.



Informal Complaint Resolution

The Long Term Care Ombudsman Program receives, investigates, and attempts to resolve complaints made by or on behalf of residents in long term care facilities. Confidentiality is the foundation of the complaint resolution process. Long Term Care Ombudsmen do not disclose the identity of any person registering complaints with the program, nor the contents of a complaint in any way that could identify the complainant unless written informed consent has been given for disclosure.

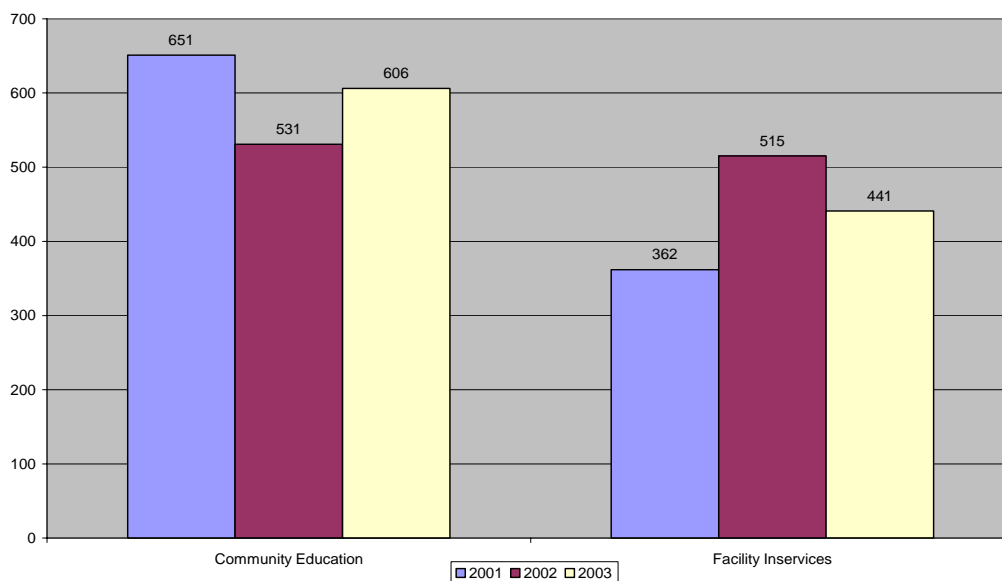
The Long Term Care Ombudsman Program responded to **3,868 complaints** from **1,235 individuals** in 2003. Sixty-six percent (66%) of those complaints were related to problems experienced in nursing homes and thirty-four percent (34%) of complaints received involved adult care home residents.

In-service Education for Facility Staff

The Long Term Care Ombudsman Program provided **441 training sessions** for long term care staff during 2003. Several Regional Ombudsman Programs conducted annual training conferences for Certified Nursing Assistants and Personal Care Aides designed to enhance basic caregiver and stress management skills. Regional Ombudsmen provided training on such topics as:

- ◆ Residents' Rights
- ◆ Role of the Long Term Care Ombudsman Program
- ◆ Elder Abuse Identification and Prevention
- ◆ Sensitivity to Sensory Losses Associated with Aging

Education and Training provided by LTC Ombudsman Program



Community Education

The Long Term Care Ombudsman Program provided **606 educational sessions** for a variety of community audiences during 2003. Workshop topics included:

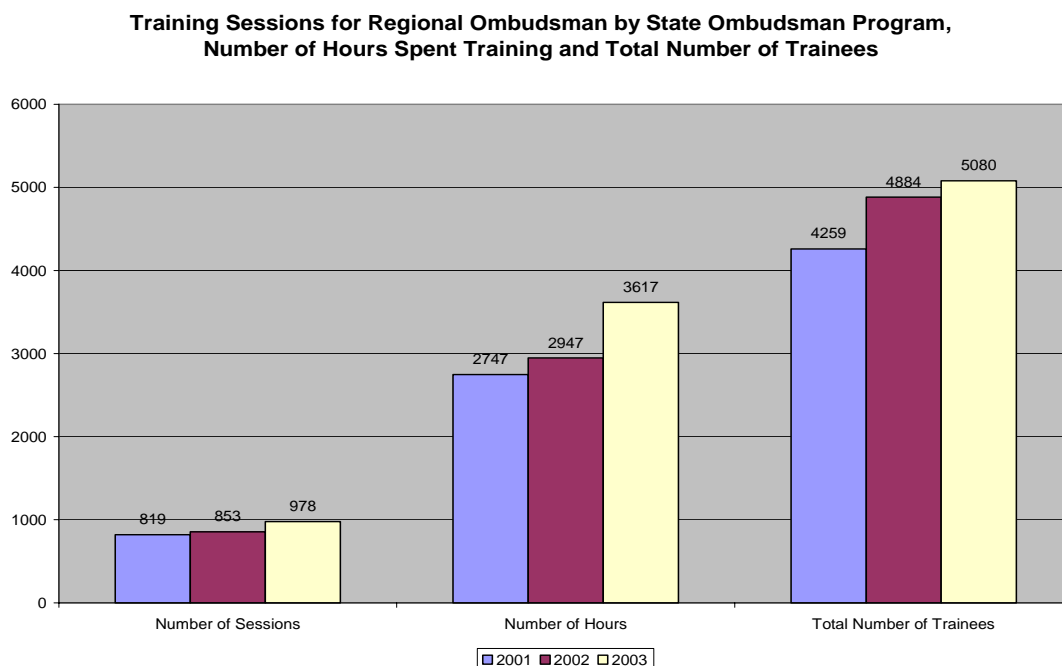
- ◆ Understanding Residents' Rights,
- ◆ Ombudsman Program Roles and Services,
- ◆ Understanding Different Types of Legal Authority,
- ◆ Understanding the /Transfer/Discharge Process,
- ◆ Recognizing and Reporting Elder Abuse.

Volunteer Management

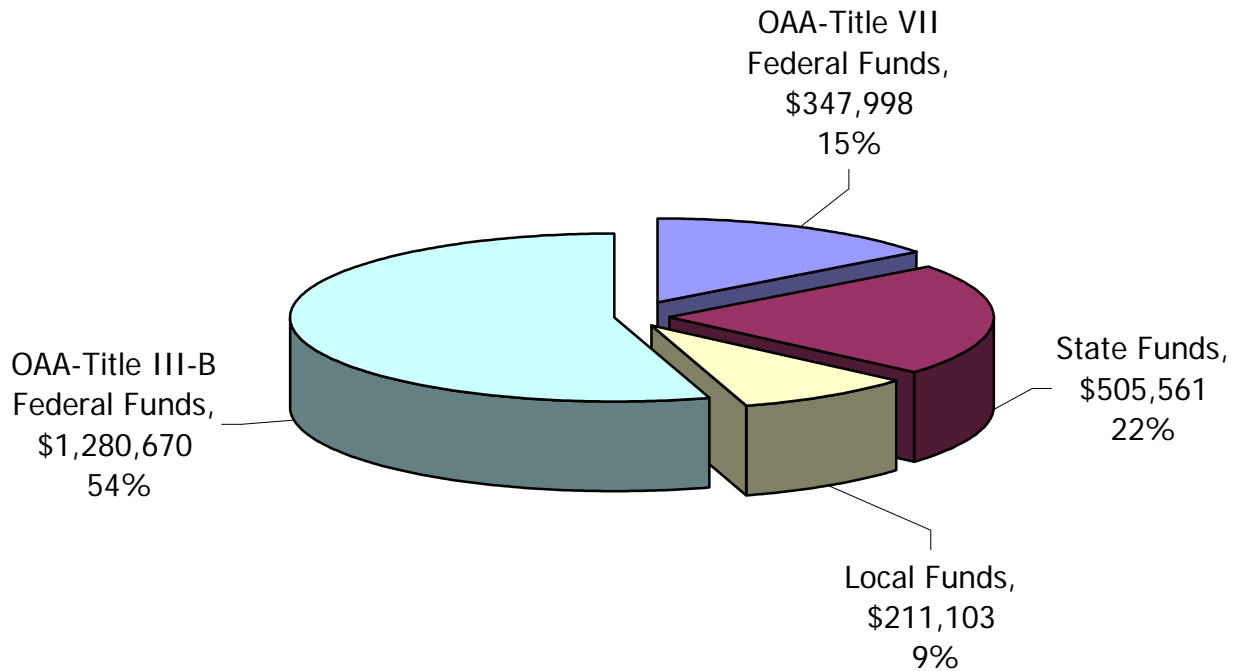
The Long Term Care Ombudsman Program provided **3,617 hours** of training for community advisory committee volunteers and new regional ombudsmen during 2003. Regional Ombudsmen spent approximately 42% of their time providing initial training for newly appointed community advisory committee members, coordinating ongoing committee training, and regularly providing technical assistance to the local advisory committees. The Ombudsman Program maintained 1,188 trained and active community advisory committee volunteers throughout 2003.

Ombudsman Training and Certification

Six (6) new regional ombudsmen completed Division of Aging and Adult Services' requirements for long term care ombudsman certification during 2003. The ombudsman certification process includes five days of intense training with the State Long Term Care Ombudsman and state program staff, scheduled internships in both nursing homes and adult care homes, plus completion of a required reading list.



North Carolina Long Term Care Ombudsman Program
Expenditures Funding Sources
October 2002- September 2003



The Division of Aging and Adult Services administers the federal and state funding that supports the Long Term Care Ombudsman Program in North Carolina. Approximately 95% of all funds shown in this chart are allocated to the Area Agencies on Aging for operation of the 17 Regional Ombudsman Programs.

** State fund expenditures represent \$119,236 in state agency and matching funds for Title III and VII, and \$386,325 in state appropriations for Regional LTC Ombudsman Programs.

2003 Accomplishments Across the Regions

The Regional Long Term Care Ombudsman with the **Southwestern Planning Commission**, which covers 7 counties in the western part of North Carolina, including the Cherokee Indian Reservation, collaborated with several local agencies to provide community education sessions focusing on several different topics. In March 2003, the Regional Ombudsman Program and the Area Agency on Aging collaborated with the 30th Judicial District Domestic Violence Sexual Assault Alliance, Inc. to present the **First Annual Domestic Violence and Elder Abuse Conference**. The conference was held in Macon County with 150 people in attendance. The Regional Ombudsman Program collaborated with the Western Chapter of the Alzheimer's Association to provide three half-day training events for caregivers as well as facility staff. **Elder Care Seminars** were also conducted in collaboration with local county agencies. These seminars provided information to community groups about financial issues, legal issues, normal aging versus signs of abuse, the role of adult protective services and caregiver issues. The Regional Long Term Care Ombudsman has been working with Pathways for the Future (non-profit agency) and area long term care facilities to identify residents who are interested in and would be appropriate for transitioning out of the nursing home back into independent living.

2003 has been another year of great change for the **Land-of-Sky Regional Council's** Regional Long Term Care Ombudsman Program. The Land-of-Sky Regional Council covers Buncombe, Madison, Henderson and Transylvania counties. An additional part-time Regional Ombudsman was hired in January 2003. Many great projects are currently underway. The Regional Ombudsmen continue to advocate for Medicaid dental services for long term care residents in the region. The year's most successful elder abuse prevention event was a conference held in Black Mountain. The Regional Ombudsmen teamed up with the region's Family Caregiver Resource Specialist and the Retired and Senior Volunteer Coordinator to plan and present **Senior Consumer Fraud: How to Look Out for Yourself** a day long conference for the community. Debbie Brantley with the N.C. State Division of Aging and Adult Services and Jane Feather with the N.C. Attorney General's Office were two featured speakers.

The **Isothermal Commission's** Regional Long Term Care Ombudsman provides advocacy services for four counties (Cleveland, McDowell, Polk, Rutherford) in the rural western part of North Carolina. There are 95 long term care facilities in this area. A main focus this year for the Regional Ombudsman was to increase elder abuse awareness across the region. The Regional Ombudsman conducted 11 in-service trainings to area long term care facilities for approximately 270 staff members, who received information about the Role of the Long Term Care Ombudsman Program, Residents' Rights, Elder Abuse Awareness and Older Adult Sensitivity training. The Regional Ombudsman topped off outreach efforts for the year with a day-long **Elder Care Conference** that highlighted various aspects of elder abuse. The conference was free to attendees and was held during Older Americans' Month. Guest speakers for the conference included Jane Feather with the N.C. Attorney General's Office, Edna Ballard, Duke Family Support Program, Josiah Bova, N.C. Department of Insurance/SHIP, a local Adult Protective Services caseworker, and local representatives from Consumer Credit Counseling agencies. The **High Country Council of Governments** includes Alleghany, Ashe, Avery, Mitchell, Watauga, Wilkes and Yancey counties. In 2003, the Regional Long Term Care

Ombudsman made 152 visits to facilities, presented fourteen training programs to facility staff and participated in 21 presentations to the public and service agencies attended by a total of 400 persons. The Regional Ombudsman has continued work to expand meaningful activities for men who reside in long term care facilities in the region. The Regional Ombudsman developed a regional program about Elder Abuse that targets First Responders. The program emphasizes the importance of reporting suspected abuse situations to the county department of social services. It also provides an opportunity for Adult Protective Service workers to answer questions. This program has been presented 13 times in five counties. Audiences included EMS personnel, Sheriff's Departments, police departments, hospice staff, Senior Center in-home aides and community abuse prevention coalitions.

The **Western Piedmont Council of Governments** employs two Regional Long Term Care Ombudsmen who cover long term care facilities in Alexander, Burke, Caldwell, and Catawba counties. In May 2003, a one-day workshop was held on Elder Abuse. Holly Ramsey-Klawnsnik from Boston, Massachusetts spoke about ***Sexual Abuse and the Vulnerable Adult***. The target audience was hospital staff, nursing home staff and local department of social services personnel, as well as family members and caregivers. The focus of this training was identification of abuse or abusers and prevention strategies. Approximately 25 people were in attendance. The Regional Ombudsmen have continued advocacy efforts supporting a comprehensive Dental Program for North Carolina long term care residents receiving Medicaid.

The **Centralina Council of Governments** has three full time Regional Long Term Care Ombudsmen and one part-time Regional Long Term Care Ombudsman who provide advocacy services for residents in 201 long term care facilities (16,000 beds) in nine counties. In 2003, the Regional Ombudsmen hosted several conferences and training events in the community. The ***First Annual Aging Services Conference*** was a major event that centered on general issues for aging services providers and long term care staff. This year, the Regional Ombudsmen completed several Elder Abuse Projects: the statistical data for the First Responder Training manual was updated and training courses titled *"The Basics of Elder Abuse Prevention"* and *"A Community Approach to Elder Abuse Prevention"* were implemented.

The **Piedmont Triad Council of Governments'** Regional Long Term Care Ombudsman Program is staffed by two full-time Regional Ombudsmen and one part-time Regional Ombudsman. The Regional Ombudsmen serve a seven-county region that has 271 facilities with 11,344 beds. In 2003, the community advisory committees' quarterly trainings were completed using a new format. At each quarterly meeting, committee members received an article written by one of the Regional Ombudsmen. After reading the article, they received a set of study questions to be answered. Each person then received a certificate for successfully completing one hour of training. Community Advisory Committee members retain the articles as handy resource guides. The theme of the 2003 Elder Rights Conference was ***No Excuse for Elder Abuse***. Attendance exceeded expectations with 152 participants that included Community Advisory Committee members, long term care providers, social services workers, senior adults and other interested people. Among the keynote speakers were Joyce Massey-Smith, Adult Program Representative with the N.C. Division of Aging and Adult Services and Bille Rouse with the North Carolina Attorney General's Office, Consumer Protection Division.

A special presentation was conducted for the long term care providers by Sharon Moore and Debbie Hockaday who work with the Division of Facility Services, N.C. Health Care Registry. They discussed the mandated requirement for reporting allegations against health care workers who have been accused of harming someone in their care. Speakers also shared valuable information about how to conduct internal investigations of abuse and neglect.

The Regional Long Term Care Ombudsmen with the **Northwest Piedmont Council of Governments** which serves Surry, Stokes, Yadkin, Davie and Forsyth counties, conducted elder abuse education, prevention and awareness through acknowledgement of the important work of local direct care workers in a **CNA Appreciation Day** scheduled in September 2003. It was a day of fun and education for all. Educational sessions included: Frauds and Scams, Sensitivity to Aging, Alzheimer's disease, Pain Management, Grief Counseling, Customer Relations, HIPAA and Personal Body Mechanics. Local departments of social services served on the planning committee for this event. Highlights of other program activities include: Residents' Rights Week Celebrations, participation in Long Term Care Advocacy Day at the General Assembly, attendance at Friends of Residents in Long Term Care's 15th Anniversary Celebration, Century Club celebrations in region's long term care facilities and ongoing advocacy efforts to protect adult care home residents' rights.

The **Triangle J Council of Governments** employs four Regional Long Term Care Ombudsmen to cover Chatham, Durham, Johnston, Lee, Moore, Orange and Wake counties located in the central part of the State. In the past year, the Regional Ombudsmen focused on resident and family member empowerment activities. They worked to support, encourage and help establish both resident and family councils in long term care facilities throughout the region and to provide educational sessions about Residents' Rights. When explaining Residents' Rights, the Regional Ombudsmen frequently focused on elder abuse (neglect and exploitation) causes, prevention and possible interventions should one suspect some type of abuse. The Regional Ombudsmen have also taken part in **First Responders** training as part of the Orange County Elder Mistreatment Coalition. In July 2003, the Moore County **Nursing Assistance Education and Appreciation Day** was co-hosted by the Regional Ombudsman Program and Moore County Community Advisory Committees. The event honored nursing assistants and provided training that focused on aging issues. Topics included: *"Reminiscence Therapy: Respecting and Celebrating the Past," "Dealing with Difficult Behaviors," "Behave Yourself: How to Change Your Own Behaviors and Have An Impact On Those With Alzheimer's Disease and Related Dementias,"* and *"Medications and Alzheimer's Disease: The Good, the Bad and the Ugly."* Approximately 85 people were in attendance.

The **Kerr Tar Regional Council of Governments'** Regional Long Term Care Ombudsman Program serves five counties in the north central part of North Carolina (Franklin, Granville, Person, Vance and Warren). There are 50 long term care facilities in this region. This year, several workshops were conducted in the region for facility staff and family caregivers. The goal of one event was education for caregivers about Alzheimer's disease and included providing helpful tips to use when caring for individuals with the disease. Another training session, **Elder Abuse in the Long Term Care Setting: Developing Coping Skills**, was geared towards community advisory committee

members, long term care facility staff and local professionals who work with the older adult population. Training goals for this workshop were to educate attendees about elder abuse, available resources if the problems related to abuse occurred and stress relievers for caregivers.

The **Upper Coastal Plain Council of Governments'** Regional Long Term Care Ombudsman and 66 community advisory committee members visited and advocated on behalf of 2,257 residents residing in 21 nursing homes and 1,491 residents in 44 adult care homes in Edgecombe, Halifax, Nash, Northampton and Wilson Counties. Just some of the activities the Regional Ombudsman participated in this year include assisting the family caregiver specialist with planning and hosting an ***End of Life Workshop***, participating in LTC Advocacy Day at the N. C. General Assembly and assisting the Kerr-Tar Regional Council of Governments' Regional Long Term Care Ombudsman with planning and co-hosting a workshop on ***Elder Abuse in the Long Term Care Setting: Developing Coping Skills***. Participants learned techniques for identifying abuse, neglect and exploitation and the protocols for reporting suspected cases. The target audience was long term care staff, caregivers, community advisory members, departments of social services staff and aging service providers.

The **Mid-Carolina Council of Governments'** Regional Long Term Care Ombudsman provides advocacy services to Harnett, Sampson, and Cumberland counties. During 2003, the Regional Ombudsman coordinated two community education workshops. In February, an ***Elder Abuse Forum*** was held. In May 2003, the workshop ***Let's Work Together to Stop Abuse*** was conducted. Targeted audiences for both workshops were long term care staff, caregivers, older adults, service providers, social services staff, health department staff and community advisory committee members. The main focus of both workshops was on how to identify signs of elder abuse as well as strategies for working with residents suffering from dementia.

The **Lumber River Council of Governments'** Regional Long Term Care Ombudsman serves Bladen, Hoke, Richmond, Robeson and Scotland counties. During 2003, the Regional Ombudsman Program served as an advocate for over 3,000 residents of nursing and adult care homes in the region. The Regional Ombudsman Program sponsored the ***3rd Annual Elder Abuse Training: Alzheimer's Care***, a region-wide workshop that offered valuable training for caregivers and direct care workers. A second workshop, ***What's Important***, targeted direct care workers and administrative staff. Over 52 individuals participated in the two-day workshop where they learned some new tools and techniques to use when working with residents who suffer from Alzheimer's or other related dementias. The Regional Ombudsman Program also purchased a training DVD produced by the Eastern Chapter of the N. C. Alzheimer's Association. It will be used to provide training for long term care facility staff about how to handle dementia related behavior problems.

The Regional Long Term Care Ombudsman with the **Cape Fear Council of Governments**, which is located in the southeastern portion of North Carolina, provides advocacy services for long term care residents in Pender, New Hanover, Columbus, and Brunswick counties. Currently this area is experiencing a rapid population growth of retirement age persons, who are choosing to relocate to the coastal and semi-coastal Carolina area. In 2003, the Regional Ombudsman made presentations to a Cape Fear

Community College Activity Directors Class, the Seniors Health Insurance Information Program and area churches. The Regional Ombudsman is a member of the New Hanover Hospital and Skilled Nursing Facilities group known as "*Partner.*" This group's goals are to improve the working relationship between area hospitals and area skilled nursing homes and to use existing area resources in a timely manner to better meet nursing home residents' medical needs.

The **Eastern Carolina Council of Governments'** two Regional Long Term Care Ombudsmen provide direct advocacy services across nine counties: Carteret, Craven, Duplin, Greene, Jones, Lenoir, Onslow, Pamlico, and Wayne. There are currently 26 nursing homes and 79 adult care homes located in these eastern North Carolina counties. The Regional Ombudsman Program works with thirteen community advisory committees, which are made up of 115 volunteers. One of the major events of 2003 was the ***Volunteer Appreciation Celebration*** which was held at the Onslow Senior Services Center in Jacksonville. The guest speaker, Dr. Myrle Swicegood, spoke to the group about the importance of sharing one's time with the aging population. The Regional Ombudsmen continue to be actively involved with the Carteret County Elder Abuse Task Force. This task force is comprised of representatives from agencies throughout the county who are working to enhance awareness and prevention of elder abuse within the community.

The **Mid-East Commission's** Regional Long Term Care Ombudsman Program serves Beaufort, Bertie, Hertford, Martin and Pitt counties. The Regional Ombudsman is an active member of the Violence in Aging Council (VICA) in Pitt County. During Older Americans' Month, May 2003, a conference was sponsored by VICA, entitled ***The Golden Years & Abuse-Creating Community Partnerships***. This conference was a result of VICA members wanting to emphasize the need for public awareness and training about issues related to the abuse of older adults. The two-day conference featured Candance Heisler, a renowned speaker and author from California. Over 300 participants attended. The Regional Ombudsman continues to serve as a member of the SALT Council (*Seniors and Law Enforcement working Together*) in Pitt County. During September 2003, the Regional Ombudsman and Area Agency on Aging staff provided in-depth technical assistance to older adults residing in those counties affected by Hurricane Isabel. Types of technical assistance included working at the Emergency Operations Center to provide assistance and support to older adults in the community through the provision of direct emergency responses, recovery and restoration efforts.

The **Albemarle Commission's** Regional Long Term Ombudsman Program serves 10 counties surrounding the Albemarle Sound which is largely a rural landscape that encompasses over 3,000 square miles. The Regional Ombudsman enhanced elder abuse prevention education in the region by hosting a community education program that addressed ***Elder Abuse and Our Response to It***. Speakers included representatives from the Pasquotank Department of Social Services, Elizabeth City Police Department, Emergency Medical Services, Wake County ElderWatch Program, AARP, Family Violence Program, Inc. of Pitt County and the North Carolina Attorney General's Office. The audience included: nurses, nurse practitioners, physicians, social workers, urgent care centers staff, home health agency staff, adult day care center staff, nursing home staff, staff from inpatient units with geriatric patients, emergency medical personnel and the general public.

A Rainbow of Light

Submitted by Harvin Quidas
Regional Ombudsman
Cape Fear Area Agency on Aging

I want to introduce you to a 'rainbow of light'! She had lived at home. Her husband and one son were contract electrical workers at different locations across North Carolina. Her second son was a professional ball player. Rainbow suffered from crippling arthritis, chronic obstructive lung disease and other physical problems. Following a hospital stay, the doctor met with the family. Long term care was indicated. They chose a nursing home close to home and other family members.

A new life began for Rainbow. From day one, her new nursing home room was never drab. She took part in every craft and activity her body would allow. The walls of her room were covered with stars and calendars.

The "boys," as Rainbow would call her husband and sons, could string high voltage wires, but knew very little about how to negotiate the long-term care system. So began a relationship between Rainbow's boys and the Regional Ombudsman. Their calls and questions were frequent. "How can I get the doctor to see Rainbow?" "What is a "bed hold?" "Can you help her? She cannot hold a fork?" "The van driver got sick and the facility canceled her appointment with the eye doctor." "What is a Care Plan?"

Rainbow certainly would be proud of her "boys." They learned a great deal about working within the long-term care system. Being miles away did not diminish their efforts to be strong advocates. They and Rainbow understood that the Ombudsman was there to stand up for the rights of residents and work to insure they were respected by staff in the long-term care facility. Rainbow knew her family was there for her 100% of the time. They learned that with help you can smooth out the rough bumps and make life in a nursing home a meaningful one.

As the Ombudsman, it was a pleasure to visit Rainbow. Her room was her home. There was always something new to see. A new lamp, when turned on, had artificial fish that would swim up and down a lighted tube. Her boys brought her new display shelves to show off Rainbow's little trinkets. Yes, there were days it was hard for Rainbow to make new crafts, but Rainbow always looked her best. She had her makeup on, and her hair was "just so." She wore bright jewel-colored dresses and a beaming smile. Rainbow lived in a nursing home, but her light shined a long way.

Sometimes she would get anxious. She worried about her family and their health. She worried about her husband. Her husband's boss knew this. He gave her husband a company paid cell phone to use to call Rainbow every night.

Rainbow is no longer with us, but certainly she left wonderful, colorful memories to all who had the honor of knowing her, caring for her, and loving her.



2003 Overview of Complaints Handled Long Term Care Ombudsman Program

Receiving and resolving complaints from any source made on behalf of or by long term care residents is a major service mandated for the North Carolina Long Term Care Ombudsman Program. Data from complaints processed by the program are collected quarterly from the 17 Regional Ombudsmen Programs in North Carolina through an Ombudsman Program Complaint Tracking System. By federal and state mandates, the Complaint Tracking System is an offline, confidential data base accessible only by certified long term care ombudsmen. Numerical data is compiled into an annual report that is submitted to the U. S. Administration on Aging. The Administration on Aging then publishes this information from all states through the National Ombudsman Reporting System (NORS) and makes it available on their web site:
<http://www.aoa.gov>.

During 2003, the N. C. Long Term Care Ombudsman Program handled 3,868 complaints received from 1,285 different complainants. The total number of complaints the Long Term Care Ombudsman Program responded to increased by 3% this year. A brief review of complaint trends shows the following:

- ◆ A majority of complaints about nursing home issues (60%) were received from family members, legal representatives or friends of residents. Residents living in nursing facilities (18%) were the second largest group of complainants.
- ◆ 44% of complaints about adult care homes were received from residents and 32% were received from relatives, friends, or a resident's legal representative.
- ◆ Overall, there was a 2% increase in the number of resident generated complaints this past year.
- ◆ It is a significant accomplishment that 82% (3,175) of all complaints processed were resolved or partially resolved using the informal grievance resolution process to the satisfaction of the resident or other complainant.
- ◆ An additional 422 complaints required no further action by the Long Term Care Ombudsman Program and only 99 complaints or (3%) were not resolved to the satisfaction of the resident or complainant.

This year's annual report includes charts that reflect complaint trends by frequency, facility type, complainants, disposition of complaints and a three-year comparison of the most frequent complaints addressed in each facility type. Tables located on pages 7, 8 and 9 illustrate trends for the last three years in the areas of technical assistance, education sessions and facility staff training that were provided by the Long Term Care Ombudsman Program. The continued decline in technical assistance provided to consumers for a third consecutive year supports the assumption that community caregiver contacts are regularly being referred to the Family Caregiver Specialists

housed in the Area Agencies on Aging across the state. Prior to the establishment of the national Family Caregiver Program authorized by the 2000 amendments to the Older Americans Act, many community caregivers contacted the Long Term Care Ombudsman Program for general assistance and information.

The increase in training provided by the Long Term Care Ombudsman Program for new community advisory committee members and new regional ombudsmen appears to correlate positively with the focus this past year at the state level on enhancing community advisory committee volunteer training and expanding new regional ombudsman training to better prepare both the new volunteer and new regional ombudsman for the role of advocate.

Analysis of the major complaint categories from 2001 through 2003 indicates:

- ◆ A steady increase in nursing home complaints (33%) and adult care home complaints (25%) filed with the Ombudsman Program about facility transfers or discharges over the last three years.
- ◆ Within the Residents' Rights category, complaints related to verbal abuse, gross neglect and resident abuse by another resident have steadily increased, although the number of complaints in each subcategory is relatively small.
- ◆ Complaints about resident symptoms being unattended or no notice given to others about a change in a resident's condition related to nursing homes has also increased for the last three years from 89 complaints to 119 complaints.
- ◆ A 41% increase was noted for adult care home complaints in the Administration category.
- ◆ Two subcategories that have continued to increase are "Administrator unresponsive or unavailable," which rose to 58 complaints, reflecting a (40%) increase for nursing homes and 38 complaints or a 55% increase for adult care homes.
- ◆ Complaints about a facility's internal grievance procedures increased by 29% to 51 complaints for nursing homes and 48% or 33 complaints for adult care homes.
- ◆ Overall, the Long Term Care Ombudsman Program has experienced a 15% increase in the number of complaints handled for or on behalf of adult care home residents.

For a third consecutive year since 2001, the Long Term Care Ombudsman Program data demonstrates that regional ombudsmen across North Carolina have maintained their capability to respond to consumer requests for Ombudsman Program services on behalf of residents in long term care facilities. However, data also demonstrates that there have been no major increases in core services provided because the long term care ombudsmen have been laboring at maximum capacity since 2001 to stretch their ability to respond to more and more requests for assistance.

At least 20 additional regional ombudsman positions are needed to provide sufficient program coverage for the 87,500 plus long term care residents in North Carolina. Over eight years ago, a ratio of one ombudsman per every 2,000 long term care beds was one of the recommendations included in the Institute of Medicine Report on Long Term Care Ombudsman Programs published in 1995. There are only two regional programs out of seventeen that do not demonstrate a need for additional regional ombudsmen in order to provide quality program services. It is anticipated that demand for Long Term Care Ombudsman Program services will continue to grow. The Program's ability to effectively respond to steadily growing consumer requests for assistance is, more than ever before, dependent upon planning now for program expansion which will require additional funding.

The Long Term Care Ombudsman Program data indicates complaints increasingly involve complex rights issues. One significant trend continues to be the escalation of very restrictive smoking policies being implemented by long term care facilities that have violated residents' rights to retain and use their own property as well as violated residents' rights to make choices, enjoy autonomy, and be treated with dignity and respect. While the smoking issue is national in scope, long term care residents who smoke are caught in a difficult transition. The Long Term Care Ombudsman Program has encountered many challenges in negotiating on behalf of residents who are long time smokers as a result of actions taken by long term care facilities to establish smoke free facilities and protect resident safety.

Successful Ombudsman Intervention

Nancy Murphy, Regional Ombudsman

As Ombudsmen we often encounter situations where we can offer few solutions. It is so uplifting when we are able to intervene in a way that really makes a difference. One such example involved a resident at a skilled nursing facility who was to be discharged when his physical therapy ended.

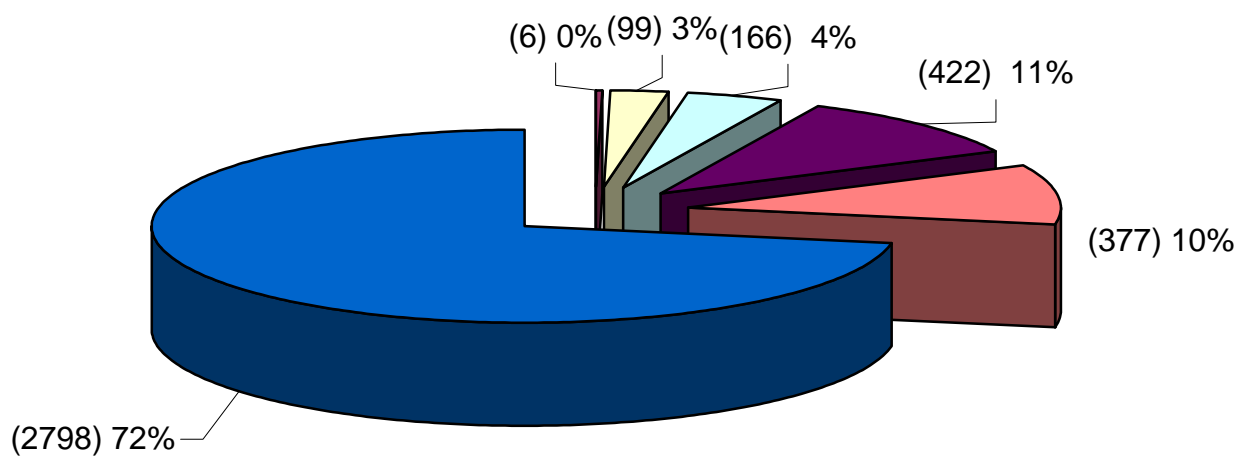
The resident had been admitted to the facility on the 16th of the month for physical therapy following a broken leg. Four days later, the family was notified by the social worker that the resident would be discharged in six days which was when his physical therapy would be ending. The family was informed that they would need to locate a new facility for him. The family frantically began visiting skilled nursing facilities in search of a bed for the resident. While explaining their dilemma during a facility visit, a staff member there recommended that the family call the Regional Ombudsman.

After talking with the resident's family, I obtained consent to speak with the Administrator. I called him and requested an explanation as to why the resident was being discharged and why the family was told to locate another facility. I reinforced how disturbing it was to the family to be sent out on a bed search. After agreeing the situation was handled poorly, he then said that the facility would help with placement. I further pointed out that there are rules to be followed when discharging a resident. The family was told that the facility had no long term care bed available for a male and that his current bed was a short-term rehab bed. The administrator reluctantly confirmed that the resident would still need skilled nursing care after his therapy ends. I then asked why would the resident need to leave a skilled bed to go to skilled bed in another facility. He replied because the resident's current bed was a Medicare bed. I contacted the DFS Licensure and Certification Section and verified that the resident's current bed assignment was dually certified to receive reimbursement from both Medicaid and Medicare.

I then followed up with the Administrator to discuss the fact that the resident was in a dually certified bed and **that he had every right to remain in that bed** after his therapy ended. He agreed that the resident could remain in that bed, but indicated a higher rate would have to be paid since the nurse-patient ratio is higher on the short-term rehab hall as opposed to the long term care hall. After verifying that this price difference was not acceptable and establishing the actual room rates through a call to the Division of Medical Assistance, I then informed the administrator of my current findings.

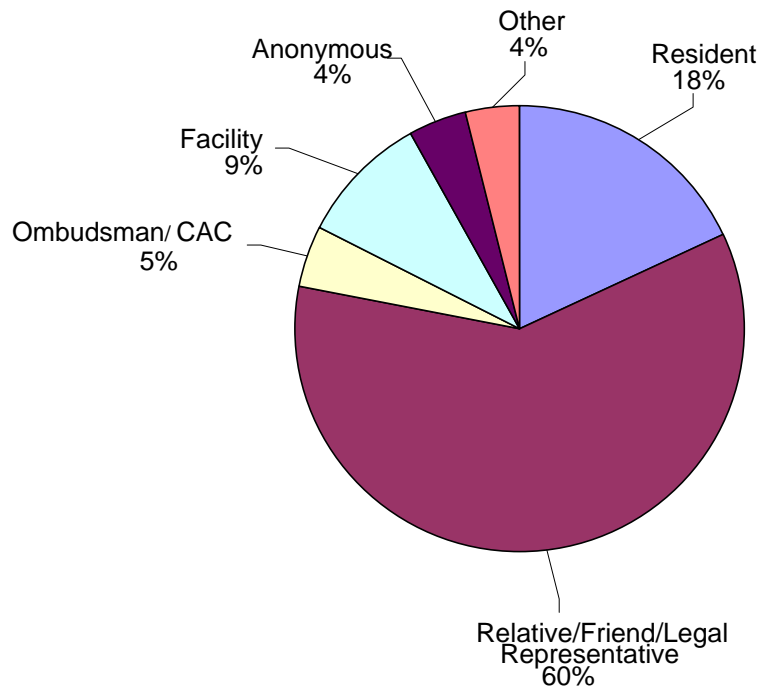
Four days later, the day the physical therapy was to end, I contacted the Administrator again to learn that he was working to make a bed available for the resident in another wing of the facility. Within minutes of this conversation, the resident's wife called me to say that the facility had notified her that a bed was available for her husband after all. **The good news is there was no discharge from the facility.** I am thankful that the staff person suggested the family call the Ombudsman.

Disposition of Complaints

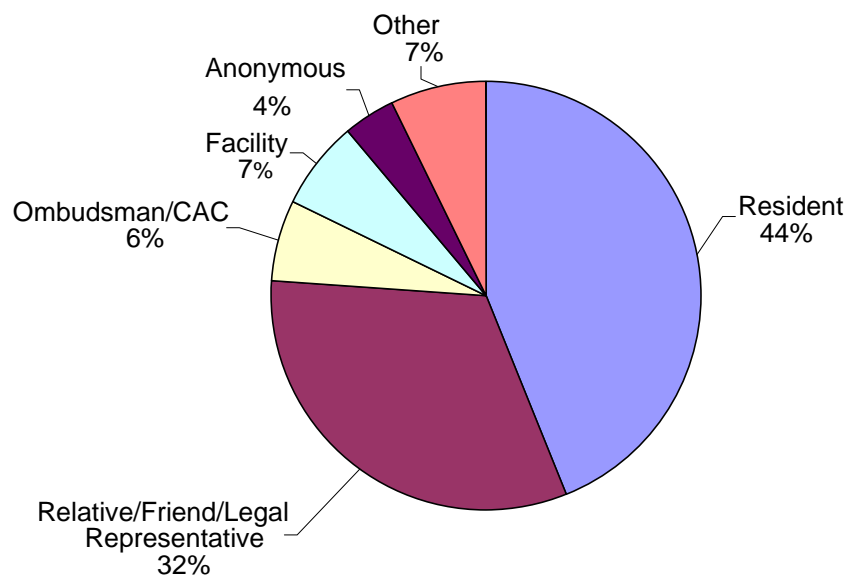


- Government policy or regulatory change or legislative action is required to resolve
- Were not resolved to satisfaction of resident or complainant
- Were withdrawn by the resident or complainant
- No action was needed or appropriate
- Partially resolved but some problem remained
- Resolved to the satisfaction of resident or complainant

Nursing Home Complainants 2003



Adult Care Home Complainants 2003



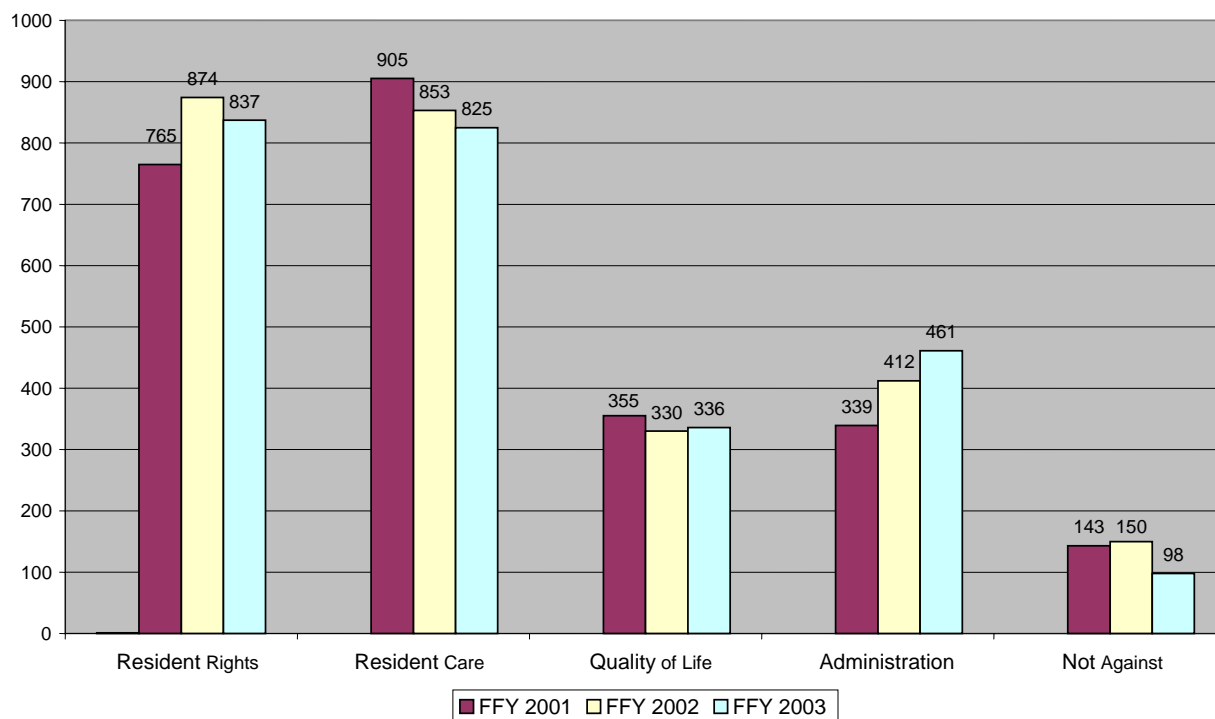
10 Most Frequent Complaints in Nursing Homes

<i>Complaint</i>	<i>Number of Complaints</i>	<i>Percentage</i>
Dignity, Respect, Staff Attitude	196	19%
Personal Hygiene	138	14%
Discharge Plans/Procedures	136	14%
Symptoms Unattended	119	12%
Staff Unresponsive, Unavailable	77	8%
Billing Charges	72	7%
Shortage of Staff	68	7%
Medications-administration	66	7%
Call lights, response to requests for assistance	62	6%
Pressure Sores	57	6%

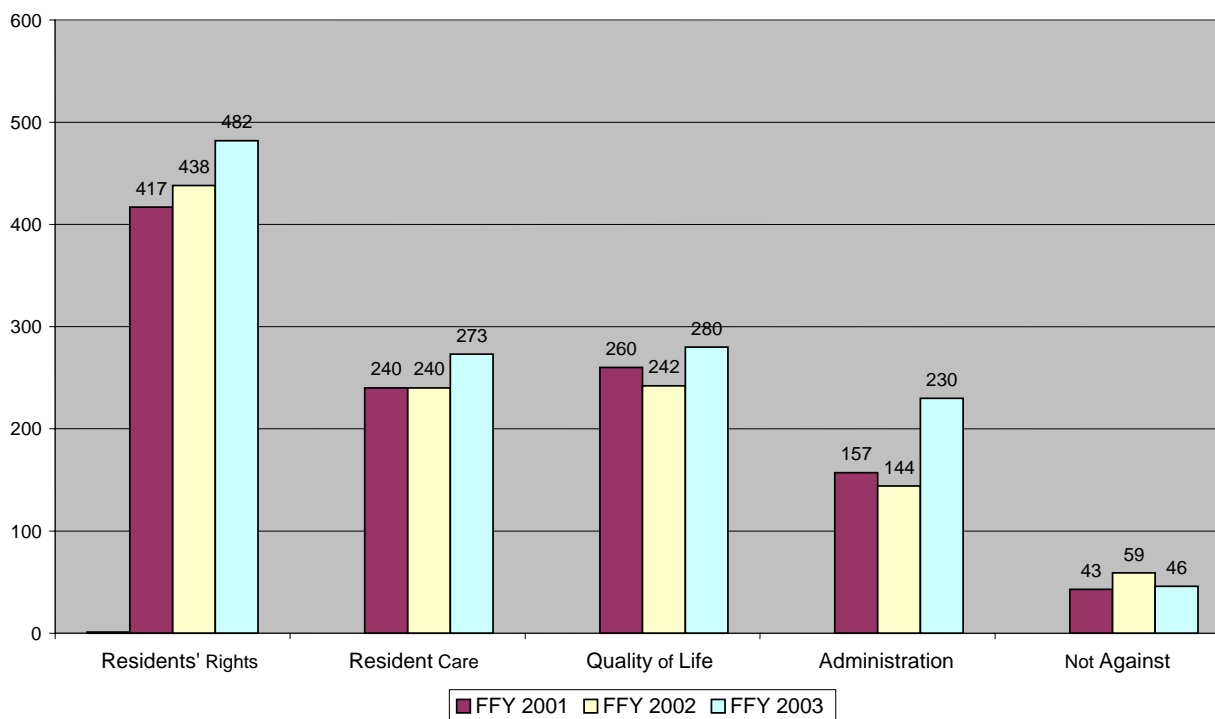
10 Most Frequent Complaints in Adult Care Homes

<i>Complaint</i>	<i>Number of Complaints</i>	<i>Percentage</i>
Dignity, Respect, Staff Attitude	79	16%
Medications- administration	72	14%
Discharge Plans/Procedures	61	12%
Menu/ Food Service	60	12%
Billing, Charges	57	11%
Cleanliness, Pests, General Housekeeping	39	8%
Administrator unresponsive	38	7%
Symptoms unattended	36	7%
Personal Hygiene	35	7%
Grievance Procedures	33	6%

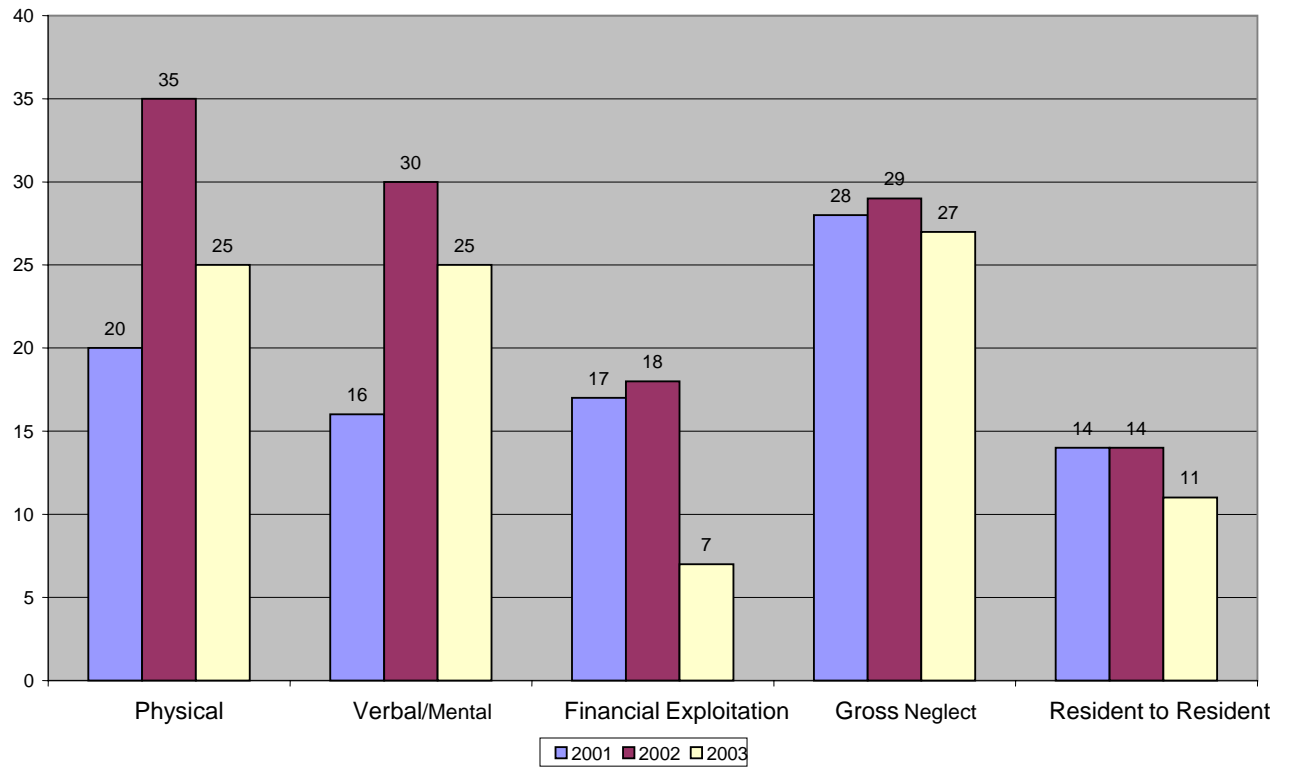
Three Year Comparison for Nursing Home Complaints FFY 2001- FFY 2003



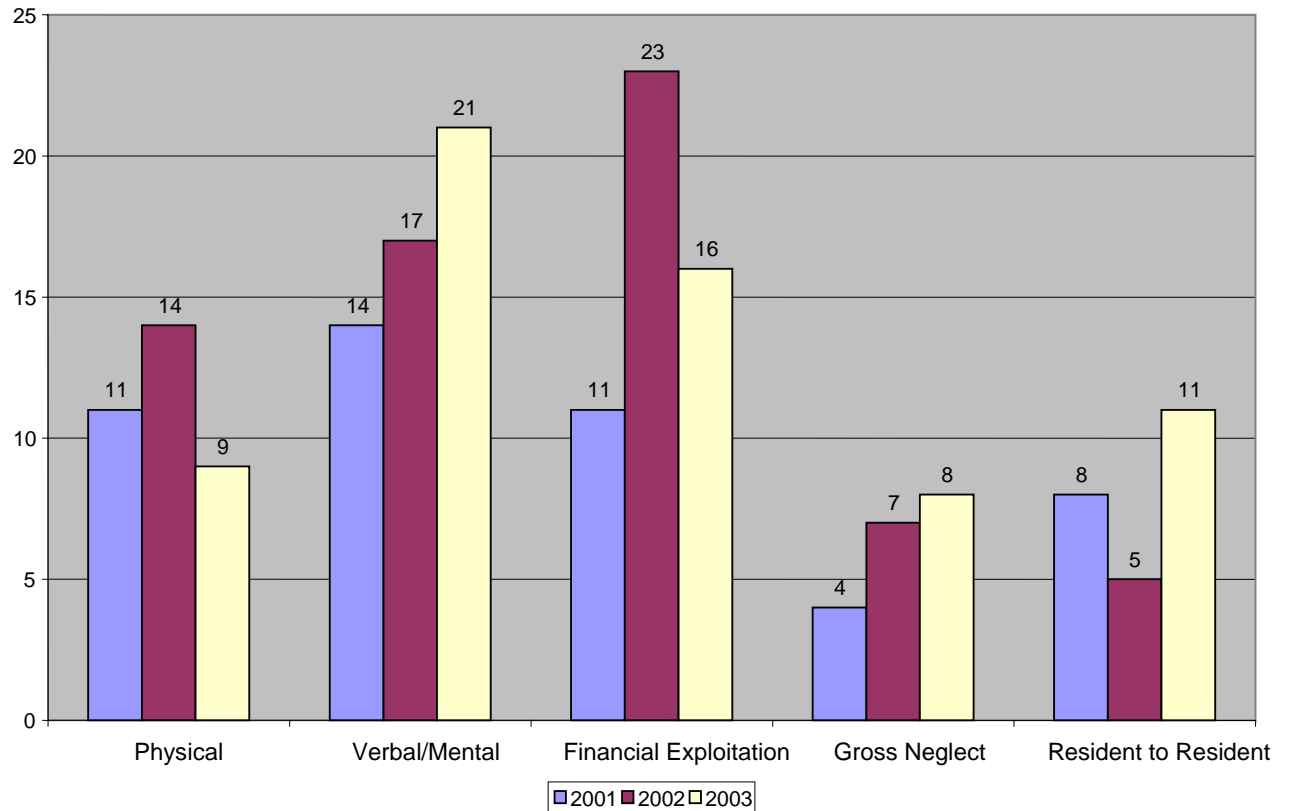
Three Year Comparison for Adult Care Home Complaints FFY 2001- FFY 2003



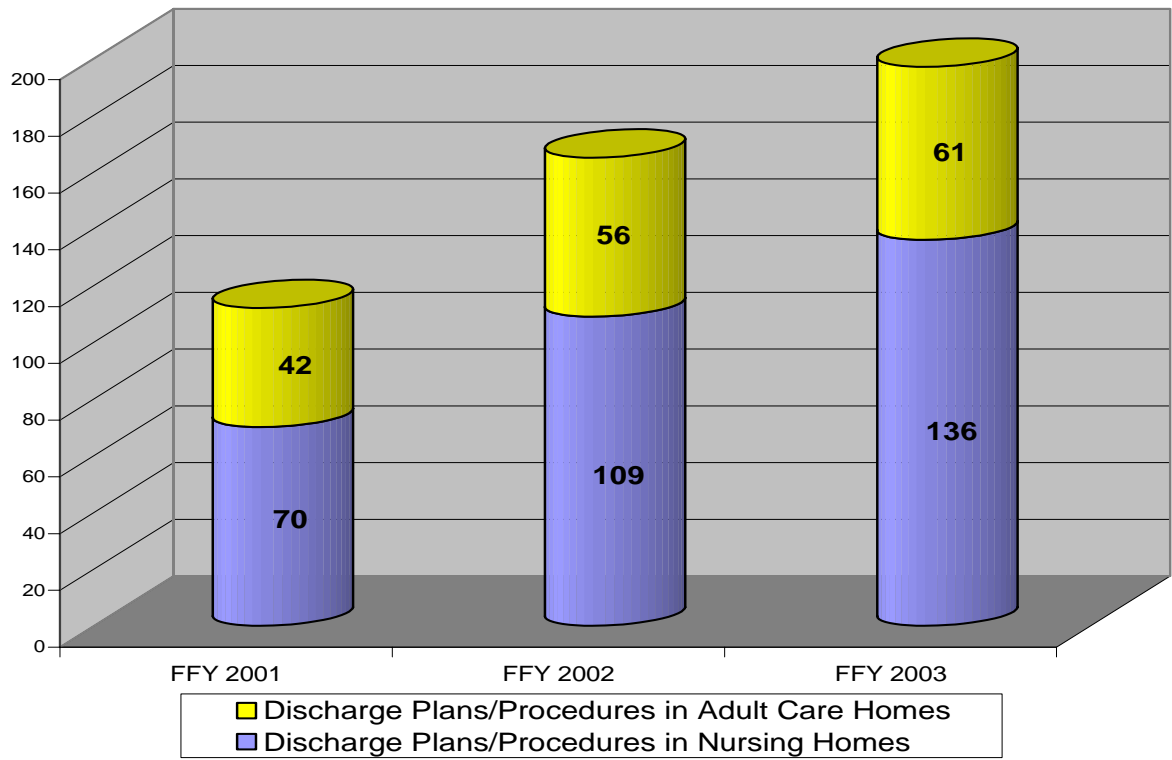
Nursing Home Complaints on Abuse



Adult Care Home Complaints on Abuse



Complaints on Discharge Plans or Procedures



Recommendations For Change

Each year the State Long Term Care Ombudsman Program publishes an annual report summarizing program activities, complaint management data and recommendations for change that focus on enhancing the quality of care and quality of life for residents of long term care facilities. The Older Americans Act requires that the annual report be distributed to the public, state officials and legislators. The Long Term Care Ombudsman Program Annual Reports can be viewed at:
www.dhhs.state.nc.us/aging/ombud/pub.htm.

The first recommendation was initially presented as part of the 2002 Ombudsman Annual Report. Retaliation against residents or families who complain about inadequate care or services continues to be a valid concern for long term care ombudsmen.

Develop a clear, concise definition of “retaliation” and written guidelines that identify actions, inactions, behaviors as well as verbal and written communications that could be considered retaliatory.

Long Term Ombudsmen frequently encounter residents or family members who are either fearful about retaliation occurring or who make allegations that retaliation has occurred within the context of addressing grievances or complaints about resident care or services in an adult care home or nursing home setting. Few states have state licensure rules or regulations that provide enforceable interpretative guidance for regulatory agencies to utilize in documenting retaliation. The State Long Term Care Ombudsman Program is willing to partner with regulatory agencies, advocacy groups and providers to establish a definition and develop strategies to address the issue when it occurs.

Implement necessary legislation and adult care home licensure rules to provide the foundation for the formation of residents’ and family councils in all adult care homes with 12 or more residents.

Regional Ombudsmen with the Piedmont Triad Council of Governments initiated this recommendation noting that nursing home residents and their families already enjoy rights to organize and participate in groups in the facility through provisions of Federal law [42 CFR 483.15(c); Public Law 100-203 Social Security Act]. Promoting constructive dialog between adult care home consumers and providers through residents’ and family councils benefits everyone.

Expand the scope and focus of SALT TRIAD Councils to include the needs of seniors living in long term care facilities. These older citizens could greatly benefit from the educational efforts of this network about enhancing their personal safety or reporting situations when they may have experienced some type of abuse or financial exploitation.

Seniors and Law Enforcement Together (SALT) and the ***TRIAD*** Councils they govern are a collaborative network of citizens, law enforcement and concerned aging

network providers who join forces to promote and educate seniors in the community about being effective self advocates and reducing their susceptibility to becoming victims of crime. The inclusion of seniors living in long term care facilities in the work of local SALT TRIAD Councils will help redefine the concept of community by reinforcing the idea that long term care facilities are a part of the community. This enhanced definition could have a profound effect on the manner in which crimes committed in long term care settings are viewed by the public, law enforcement and the judicial system. The acceptance of an expanded description by local TRIAD's directly connects to the educational goals established by the State Long Term Care Ombudsman Program through its ***Strategic Alliances for Elders in Long Term Care (SAFE -in- LTC)*** initiative which promulgates the message that "**a crime is a crime**" whether it occurs in the home of a community dwelling senior or in the home of a senior living in a long term care facility. All concerned parties need information about how to access support systems, encouragement to report incidents to the appropriate authorities and in some instances protection should they become a victim of crime or be called on to give their testimony to events they have witnessed. A good first step would be for regional long term care ombudsmen to initiate an introductory meeting with their local TRIAD Councils to educate council members and encourage formulation of a plan for broadening the SALT focus.

Finally, Long Term Care Ombudsman Program representatives along with other advocacy groups believe that great strides have been made during 2003 in educating public officials, legislators and other stakeholders about the importance of establishing a system for national criminal background checks. Research and educational efforts must be continued, however, toward urging the removal of the current legislative moratorium on implementing state criminal background checks and asking for state legislation that creates a system for accessing national background checks for potential employees of long term care facilities that have not lived in North Carolina for the last 5 years.

APPENDICES

Appendix A

Title VII, Chapter 2, Section 712 200 Amendments to the Older Americans Act

SEC 712 (42 U.S.C. 3058g) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

- (a) Establishment.--
 - (1) In general.--In order to be eligible to receive an allotment under section 703 from funds appropriated under *section 702 and made available to carry out this chapter*, a State agency shall, in accordance with this section--
 - (A) establish and operate an Office of the State Long-Term Care Ombudsman; and
 - (B) carry out through the Office a State Long-Term Care Ombudsman program.
 - (2) Ombudsman.--The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.
 - (3) Functions.--The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office--
 - (A) identify, investigate, and resolve complaints that--
 - (i) are made by, or on behalf of, residents; and
 - (ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of--
 - (I) providers, or representatives of providers, of long-term care services;
 - (II) public agencies; or
 - (III) health and social service agencies;
 - (B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;
 - (C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);
 - (D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;
 - (E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

- (F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;
 - (G)
 - (i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;
 - (ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and
 - (iii) facilitate public comment on the laws, regulations, policies, and actions;
 - (H)
 - (i) provide for training representatives of the Office;
 - (ii) promote the development of citizen organizations, to participate in the program; and
 - (iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and
 - (I) carry out such other activities as the Assistant Secretary determines to be appropriate
- (4) Contracts and arrangements.--
- (A) In general.--Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.
 - (B) Licensing and certification organizations; associations.--The State agency may not enter into the contract or other arrangement described in subparagraph (A) with--
 - (i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or
 - (ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.
- (5) Designation of local ombudsman entities and representatives.--
- (A) Designation.--In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.
 - (B) Duties.--An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency--
 - (i) provide services to protect the health, safety, welfare and rights of residents;

- (ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;
 - (iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;
 - (iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;
 - (v)
 - (I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and
 - (II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;
 - (vi) support the development of resident and family councils; and
 - (vii) carry out other activities that the Ombudsman determines to be appropriate.
- (C) Eligibility for designation.--Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall--
- (i) have demonstrated capability to carry out the responsibilities of the Office;
 - (ii) be free of conflicts of interest *and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves*;
 - (iii) in the case of the entities, be public or nonprofit private entities; and
 - (iv) meet such additional requirements as the Ombudsman may specify.
- (D) Policies and procedures.--
- (i) In general.--The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.
 - (ii) Policies.--In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

- (iii) Confidentiality and disclosure.--The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.
- (b) Procedures for Access.--
 - (1) In general.--The State shall ensure that representatives of the Office shall have--
 - (A) access to long-term care facilities and residents;
 - (B) (i) appropriate access to review the medical and social records of a resident, if--
 - (I) the representative has the permission of the resident, or the legal representative of the resident; or
 - (II) the resident is unable to consent to the review and has no legal representative; or
 - (ii) access to the records as is necessary to investigate a complaint if--
 - (I) a legal guardian of the resident refuses to give the permission;
 - (II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
 - (III) the representative obtains the approval of the Ombudsman;
 - (C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and
 - (D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.
 - (2) Procedures.--The State agency shall establish procedures to ensure the access described in paragraph (1).
- (c) Reporting System.--The State agency shall establish a statewide uniform reporting system to--
 - (1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and
 - (2) submit the data, on a regular basis, to--
 - (A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;
 - (B) other State and Federal entities that the Ombudsman determines to be appropriate;
 - (C) the Assistant Secretary; and

- (D) the National Ombudsman Resource Center established in section 202(a)(21).
- (d) Disclosure.--
 - (1) In general.--The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).
 - (2) Identity of complainant or resident.--The procedures described in paragraph (1) shall--
 - (A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and
 - (B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless--
 - (i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;
 - (ii) (I) the complainant or resident gives consent orally; and
 - (II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or
 - (iii) the disclosure is required by court order.
- (e) Consultation.--In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.
- (f) Conflict of Interest.--The State agency shall--
 - (1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;
 - (2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;
 - (3) ensure that the Ombudsman--
 - (A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

- (B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;
 - (C) is not employed by, or participating in the management of, a long-term care facility; and
 - (D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and
- (4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as--
 - (A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and
 - (B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.
- (g) Legal Counsel.--The State agency shall ensure that--
 - (1) (A) adequate legal counsel is available, and is able, without conflict of interest, to--
 - (i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and
 - (ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and
 - (B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and
 - (2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

- (h) Administration.--The State agency shall require the Office to--
- (1) prepare an annual report--
 - (A) describing the activities carried out by the Office in the year for which the report is prepared;
 - (B) containing and analyzing the data collected under subsection (c);
 - (C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;
 - (D) containing recommendations for--
 - (i) improving quality of the care and life of the residents; and
 - (ii) protecting the health, safety, welfare, and rights of the residents;
 - (E)
 - (i) analyzing the success of the program including success in providing services to residents of board (and care facilities and other similar adult care facilities; and
 - (ii) identifying barriers that prevent the optimal operation of the program; and
 - (F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;
 - (2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;
 - (3)
 - (A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding--
 - (i) the problems and concerns of older individuals residing in long-term care facilities; and
 - (ii) recommendations related to the problems and concerns; and
 - (B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);
 - (4) *strengthen and update* procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term

Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that--

- (A) specify a minimum number of hours of initial training;
 - (C) specify the content of the training, including training relating to--
 - (i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;
 - (ii) investigative techniques; and
 - (iii) such other matters as the State determines to be appropriate; and
 - (C) specify an annual number of hours of in-service training for all designated representatives;
 - (5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative--
 - (A) has received the training required under paragraph (4); and
 - (B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;
 - (6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under--
 - (A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and
 - (B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);
 - (7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means ;
 - (8) *coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and*
 - (9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).
- (i) Liability.--The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.
- (j) Noninterference.--The State shall--
- (1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;
 - (2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and
 - (3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

Appendix B

Long-Term Care Ombudsman Program.

Part 14D. North Carolina State Long-term Care Ombudsman Program

§ 143B-181.15. Long-Term Care Ombudsman Program/Office; policy.

The General Assembly finds that a significant number of older citizens of this State reside in long-term care facilities and are dependent on others to provide their care. It is the intent of the General Assembly to protect and improve the quality of care and life for residents through the establishment of a program to assist residents and providers in the resolution of complaints or common concerns, to promote community involvement and volunteerism in long-term care facilities, and to educate the public about the long-term care system. It is the further intent of the General Assembly that the Department of Health and Human Services, within available resources and pursuant to its duties under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., ensure that the quality of care and life for these residents is maintained, that necessary reports are made, and that, when necessary, corrective action is taken at the Department level. (1989, c. 403, s. 1; 1995, c. 254, s. 1; 1997-443, s. 11A.118(a).)

§ 143B-181.16. Long-Term Care Ombudsman Program/Office; definition.

Unless the content clearly requires otherwise, as used in this Article:

- (1) "Long-term care facility" means any skilled nursing facility and intermediate care facility as defined in G.S. 131A-3(4) or any adult care home as defined in G.S. 131D-20(2).
- (2) "Resident" means any person who is receiving treatment or care in any long-term care facility.
- (3) "State Ombudsman" means the State Ombudsman as defined by the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., who carries out the duties and functions established by this Article.
- (4) "Regional Ombudsman" means a person employed by an Area Agency on Aging to carry out the functions of the Regional Ombudsman Office established by this Article. (1989, c. 403, s. 1; 1995, c. 254, s. 2; c. 535, s. 35.)

§ 143B-181.17. Office of State Long-Term Care Ombudsman Program/Office; establishment.

The Secretary of Department of Health and Human Services shall establish and maintain the Office of State Long-Term Ombudsman in the Division of Aging. The Office shall carry out the functions and duties required by the Older Americans Act of 1965, as amended. This Office shall be headed by a State Ombudsman who is a person qualified by training and with experience in geriatrics and long-term care. The Attorney General shall provide legal staff and advice to this Office. (1989, c. 403, s. 1; 1997-443, s. 11A.118(a).)

§ 143B-181.18. Office of State Long-Term Care Ombudsman Program/State Ombudsman duties.

The State Ombudsman shall:

- (1) Promote community involvement with long-term care providers and residents of long-term care facilities and serve as liaison between residents, residents' families, facility personnel, and facility administration;
- (2) Supervise the Long-Term Care Program pursuant to rules adopted by the Secretary of the Department of Health and Human Services pursuant to G.S. 143B-10;
- (3) Certify regional ombudsmen. Certification requirements shall include an internship, training in the aging process, complaint resolution, long-term care issues, mediation techniques, recruitment and training of volunteers, and relevant federal, State, and local laws, policies, and standards;
- (4) Attempt to resolve complaints made by or on behalf individuals who are residents of long-term care facilities, which complaints relate to administrative action that may adversely affect the health, safety, or welfare of residents;
- (5) Provide training and technical assistance to regional ombudsmen;
- (6) Establish procedures for appropriate access by regional ombudsmen to long-term care facilities and residents' records including procedures to protect the confidentiality of these records and to ensure that the identity of any complainant or resident will not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.;
- (7) Analyze data relating to complaints and conditions in long-term care facilities to identify significant problems and recommend solutions;
- (8) Prepare an annual report containing data and findings regarding the types of problems experienced and complaints reported by residents as well as recommendations for resolutions of identified long-term care issues;
- (9) Prepare findings regarding public education and community involvement efforts and innovative programs being provided in long-term care facilities; and
- (10) Provide information to public agencies, and through the State Ombudsman, to legislators, and others regarding problems encountered by residents or providers as well as recommendations for resolution. (1989, c. 403, s. 1; 1995, c. 254, s. 3; 1997-443, s. 11A.118(a).)

§ 143B-181.19. Office of Regional Long-Term Care Ombudsman; Regional Ombudsman; duties.

- (a) An Office of Regional Ombudsman Program shall be established in each of the Area Agencies on Aging, and shall be headed by a Regional Ombudsman who shall carry out the functions and duties of the Office. The Area Agency on Aging administration shall provide administrative supervision to each Regional Ombudsman.
- (b) Pursuant to policies and procedures established by the State Office of Long-Term Care Ombudsman, the Regional Ombudsman shall:
 - (1) Promote community involvement with long-term care facilities and residents of long-term care facilities and serve as a liaison between residents, residents' families, facility personnel, and facility administration;

- (2) Receive and attempt to resolve complaints made by or on behalf of residents in long-term care facilities;
- (3) Collect data about the number and types of complaints handled;
- (4) Work with long-term care providers to resolve issues of common concern;
- (5) Work with long-term care providers to promote increased community involvement;
- (6) Offer assistance to long-term care providers in staff training regarding residents' rights;
- (7) Report regularly to the office of State Ombudsman about the data collected and about the activities of the Regional Ombudsman;
- (8) Provide training and technical assistance to the community advisory committees; and
- (9) Provide information to the general public on long-term care issues. (1989, c. 403.)

§ 143B-181.20. State/Regional Long-Term Care Ombudsman; authority to enter; cooperation of government agencies; communication with residents.

- (a) The State and Regional Ombudsman may enter any long-term care facility and may have reasonable access to any resident in the reasonable pursuit of his function. The Ombudsman may communicate privately and confidentially with residents of the facility individually or in groups. The Ombudsman shall have access to the patient records as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. §3001 et seq., and under procedures established by the State Ombudsman pursuant to G.S. 143B-181.18(6). Entry shall be conducted in a manner that will not significantly disrupt the provision of nursing or other care to residents and if the long-term care facility requires registration of all visitors entering the facility, then the State or Regional Ombudsman must also register. Any State or Regional Ombudsman who discloses any information obtained from the patient's records except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq., is guilty of a Class 1 misdemeanor.
- (b) The State or Regional Ombudsman shall identify himself as such to the resident, and the resident has the right to refuse to communicate with the Ombudsman.
- (c) The resident has the right to participate in planning any course of action to be taken on his behalf by the State or Regional Ombudsman, and the resident has the right to approve or disapprove any proposed action to be taken on his behalf by the Ombudsman.
- (d) The State or Regional Ombudsman shall meet with the facility administrator or person in charge before any action is taken to allow the facility the opportunity to respond, provide additional information, or take appropriate action to resolve the concern.
- (e) The State and Regional Ombudsman may obtain from any government agency, and this agency shall provide, that cooperation, assistance,

services, data, and access to files and records that will enable the Ombudsman to properly perform his duties and exercise his powers, provided this information is not privileged by law.

- (f) If the subject of the complaint involves suspected abuse, neglect, or exploitation, the State or Regional Ombudsman shall notify the county department of social services' Adult Protection Services section of the county department of social services, pursuant to Article 6 of Chapter 108A of the General Statutes. (1989, c. 403, s. 1; 1993, c. 539, s. 1038; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 254, s. 4.)

§ 143B-181.21. State/Regional Long-Term Care Ombudsman; resolution of complaints.

- (a) Following receipt of a complaint, the State or Regional Ombudsman shall attempt to resolve the complaint using, whenever possible, informal technique of mediation, conciliation, and persuasion.
- (b) Complaints or conditions adversely affecting residents of long-term care facilities that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the State or Regional Ombudsman to the appropriate licensure agency pursuant to G.S. 131E-100 through 110 and G.S.131D-2. (1989, c. 403.)

§ 143B-181.22. State/Regional Long-Term Care Ombudsman; confidentiality.

The identity of any complainant, resident on whose behalf a complaint is made, or any individual providing information on behalf of the resident or complainant relevant to the attempted resolution of the complaint along with the information produced by the process of complaint resolution is confidential and shall be disclosed only as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq. (1989, c. 403, s. 1; 1995, c. 254, s. 5.)

§ 143B-181.23. State/Regional Long-Term Care Ombudsman; prohibition of retaliation.

No person shall discriminate or retaliate in any manner against any resident or relative or guardian of a resident, any employee of a long-term care facility, or any other person because of the making of a complaint or providing of information in good faith to the State Ombudsman or Regional Ombudsman. (1989, c. 403.)

§ 143B-181.24. Office of State/Regional Long-Term Care Ombudsman; immunity from liability.

No representative of the Office shall be liable for good faith performance of official duties. (1989, c. 403.)

§ 143B-181.25. Office of State/Regional Long-Term Care Ombudsman; penalty for willful interference.

Willful or unnecessary obstruction with the State or Regional Long-Term Care Ombudsman in the performance of his official duties is a Class 1 misdemeanor. (1989, c. 403; 1993, c. 539, s. 1039; 1994, Ex. Sess., c. 24, s. 14(c).)

Appendix C

Long Term Care Ombudsman Program

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North Carolina Regional Ombudsmen

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Appendix D

§ 131D-31. Adult care home community advisory committees.

- (a) Statement of Purpose. - It is the intention of the General Assembly that community advisory committees work to maintain the intent of the Adult Care Home Residents' Bill of Rights within the licensed adult care homes in this State. It is the further intent of the General Assembly that the committees promote community involvement and cooperation with adult care homes to ensure quality care for the elderly and disabled adults.
- (b) Establishment and Appointment of Committees. -
 - (1) A community advisory committee shall be established in each county that has at least one licensed adult care home, shall serve all the homes in the county, and shall work with each of these homes for the best interests of the residents. In a county that has one, two, or three adult care homes with 10 or more beds, the committee shall have five members.
 - (2) In a county with four or more adult care homes with 10 or more beds, the committee shall have one additional member for each adult care home with 10 or more beds in excess of three, and may have up to five additional members at the discretion of the county commissioners, not to exceed a maximum of 25 members. In each county with four or more adult care homes with 10 or more beds, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each adult care home in the county. Each member must serve on at least one subcommittee.
 - (3) In counties with no adult care homes with 10 or more beds, the committee shall have five members. Regardless of how many members a particular community advisory committee is required to have, at least one member of each committee shall be a person involved in the area of mental retardation.
 - (4) The boards of county commissioners are encouraged to appoint the Adult Care Home Community Advisory Committees. Of the members, a minority (not less than one-third, but as close to one-third as possible) shall be chosen from among persons nominated by a majority of the chief administrators of adult care homes in the county. If the adult care home administrators fail to make a nomination within 45 days after written notification has been sent to them requesting a nomination, these appointments may be made without nominations. If the county commissioners fail to appoint members to a committee by July 1, 1983, the

appointments shall be made by the Assistant Secretary for Aging, Department of Health and Human Services, no sooner than 45 days after nominations have been requested from the adult care home administrators, but no later than October 1, 1983. In making appointments, the Assistant Secretary for Aging shall follow the same appointment process as that specified for the County Commissioners.

- (c) Joint Nursing and Adult Care Home Community Advisory Committees. - Appointment to the Nursing Home Community Advisory Committees shall preclude appointment to the Adult Care Home Community Advisory Committees except where written approval to combine these committees is obtained from the Assistant Secretary for Aging, Department of Health and Human Services. Where this approval is obtained, the Joint Nursing and Adult Care Home Community Advisory Committee shall have the membership required of Nursing Home Community Advisory Committees and one additional member for each adult care home with 10 or more beds licensed in the county. In counties with no adult care homes with 10 or more beds, there shall be one additional member for every four other types of adult care homes in the county. In no case shall the number of members on the Joint Nursing and Adult Care Home Community Advisory Committee exceed 25. Each member shall exercise the statutory rights and responsibilities of both Nursing Home Committees and Adult Care Home Committees. In making appointments to this joint committee, the county commissioners shall solicit nominations from both nursing and adult care home administrators for the appointment of approximately (but no more than) one-third of the members.
- (d) Terms of Office. - Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a two- or three-year term at the county commissioners' discretion to ensure staggered terms of office.
- (e) Vacancies. - Any vacancy shall be filled by appointment of a person for a one-year term. If this vacancy is in a position filled by an appointee nominated by the chief administrators of adult care homes within the county, then the county commissioners shall fill the vacancy from persons nominated by a majority of the chief administrators. If the adult care home administrators fail to make a nomination by registered mail within 45 days after written notification has been sent to them requesting a nomination, this appointment may be made without nominations. If the county commissioners fail to fill a vacancy, the vacancy may be filled by the Assistant Secretary for Aging, Department of Health and

Human Services no sooner than 45 days after the commissioners have been notified of the appointment or vacancy.

- (f) Officers. - The committee shall elect from its members a chair, to serve a one-year term.
- (g) Minimum Qualifications for Appointment. - Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by the committee, or employee or governing board member of a home served by the committee, or immediate family member of a resident in a home served by the committee may be a member of that committee. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, Department of Health and Human Services.
- (h) Training. - The Division of Aging, Department of Health and Human Services, shall develop training materials, which shall be distributed to each committee member. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under G.S. 131D-32. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (i) Any written communication made by a member of adult care home advisory committee within the course and scope of the member's duties, as specified in G.S. 131D-32, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements and communications do not amount to intentional wrongdoing.

To the extent that any adult care home advisory committee or any member is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1981, c.923, s. 1; 1983, c. 88, s. 1; 1987, c. 682, s. 2; 1995, c. 535, s. 14; 1997-176, s. 2; 1997-443, s. 11A.118(a).)

§ 131E-128. Nursing home advisory committees.

- (a) It is the purpose of the General Assembly that community advisory committees work to maintain the intent of this Part within the nursing homes in this State, including nursing homes operated by hospitals licensed under Article 5 of G.S. Chapter 131E. It is the

further purpose of the General Assembly that the committees promote community involvement and cooperation with nursing homes and an integration of these homes into a system of care for the elderly.

- (b)
 - (1) A community advisory committee shall be established in each county which has a nursing home, including a nursing home operated by a hospital licensed under Article 5 of G.S. Chapter 131E, shall serve all the homes in the county, and shall work with each home in the best interest of the persons residing in each home. In a county which has one, two, or three nursing homes, the committee shall have five members. In a county with four or more nursing homes, the committee shall have one additional member for each nursing home in excess of three, and may have up to five additional members per committee at the discretion of the county commissioners.
 - (2) In each county with four or more nursing homes, the committee shall establish a subcommittee of no more than five members and no fewer than three members from the committee for each nursing home in the county. Each member must serve on at least one subcommittee.
 - (3) Each committee shall be appointed by the board of county commissioners. Of the members, a minority (not less than one-third, but as close to one-third as possible) must be chosen from among persons nominated by a majority of the chief administrators of nursing homes in the county and of the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes. If the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to make a nomination within 45 days after written notification has been sent to them by the board of county commissioners requesting a nomination, these appointments may be made by the board of county commissioners without nominations.
- (c) Each committee member shall serve an initial term of one year. Any person reappointed to a second or subsequent term in the same county shall serve a three-year term. Persons who were originally nominees of nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, or who were appointed by the board of county commissioners when the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make nominations, may not be reappointed without the consent of a majority of the nursing home chief administrators and

the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes within the county. If the nursing home chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes fail to approve or reject the reappointment within 45 days of being requested by the board of county commissioners, the commissioners may reappoint the member if they so choose.

- (d) Any vacancy shall be filled by appointment of a person for a one-year term. Any person replacing a member nominated by the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes or a person appointed when the chief administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes failed to make a nomination shall be selected from among persons nominated by the administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes, as provided in subsection (b). If the county commissioners fail to appoint members to a committee, or fail to fill a vacancy, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have been notified of the appointment or vacancy if nomination or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is not required. If nominations or approval of the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes is required, the appointment may be made or vacancy filled by the Secretary or the Secretary's designee no sooner than 45 days after the commissioners have received the nomination or approval, or no sooner than 45 days after the 45-day period for action by the nursing home administrators and the governing bodies of the hospitals licensed under Article 5 of G.S. Chapter 131E, which operate nursing homes.
- (e) The committee shall elect from its members a chair, to serve a one-year term.
- (f) Each member must be a resident of the county which the committee serves. No person or immediate family member of a person with a financial interest in a home served by a committee, or employee or governing board member or immediate family member of an employee or governing board member of a home served by a committee, or immediate family member of a patient in a home served by a committee may be a member of a committee. Membership on a committee shall not be considered an office as

defined in G.S. 128-1 or G.S. 128-1.1. Any county commissioner who is appointed to the committee shall be deemed to be serving on the committee in an ex officio capacity. Members of the committee shall serve without compensation, but may be reimbursed for the amount of actual expenses incurred by them in the performance of their duties. The names of the committee members and the date of expiration of their terms shall be filed with the Division of Aging, which shall supply a copy to the Division of Facility Services.

- (g) The Division of Aging, Department of Health and Human Services, shall develop training materials which shall be distributed to each committee member and nursing home. Each committee member must receive training as specified by the Division of Aging prior to exercising any power under subsection (h) of this section. The Division of Aging, Department of Health and Human Services, shall provide the committees with information, guidelines, training, and consultation to direct them in the performance of their duties.
- (h)
 - (1) Each committee shall apprise itself of the general conditions under which the persons are residing in the homes, and shall work for the best interests of the persons in the homes. This may include assisting persons who have grievances with the home and facilitating the resolution of grievances at the local level.
 - (2) Each committee shall quarterly visit the nursing home it serves. For each official quarterly visit, a majority of the committee members shall be present. In addition, each committee may visit the nursing home it serves whenever it deems it necessary to carry out its duties. In counties with four or more nursing homes, the subcommittee assigned to a home shall perform the duties of the committee under this subdivision, and a majority of the subcommittee members must be present for any visit.
 - (3) Each member of a committee shall have the right between 10:00 A.M. and 8:00 P.M. to enter into the facility the committee serves in order to carry out the members' responsibilities. In a county where subcommittees have been established, this right of access shall be limited to homes served by those subcommittees to which the member has been appointed.
 - (4) The committee or subcommittee may communicate through its chair with the Department or any other agency in relation to the interest of any patient. The identity of any complainant or resident involved in a complaint shall not be disclosed except as permitted under the Older Americans Act of 1965, as amended, 42 U.S.C. § 3001 et seq.

- (5) Each home shall cooperate with the committee as it carries out its duties.
- (6) Before entering into any nursing home, the committee, subcommittee, or member shall identify itself to the person present at the facility who is in charge of the facility at that time.
- (i) Any written communication made by a member of a nursing home advisory committee within the course and scope of the member's duties, as specified in G.S. 131E-128, shall be privileged to the extent provided in this subsection. This privilege shall be a defense in a cause of action for libel if the member was acting in good faith and the statements or communications do not amount to intentional wrongdoing.

To the extent that any nursing home advisory committee or any member thereof is covered by liability insurance, that committee or member shall be deemed to have waived the qualified immunity herein to the extent of indemnification by insurance. (1977, c.897, s. 2; 1977, 2nd Sess., c. 1192, s. 1; 1983, c. 143, ss. 4-9; c. 775, s. 1; 1987, c. 682, s. 1; 1995, c. 254, s. 7; 1997-176, s. 1; 1997-443, s. 11A.118(a).)

APPENDIX E

